

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Second Legislature

State of Maine

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

In Senate Chamber
Thursday
June 2, 2005

Senate called to order by President Pro Tem Elizabeth H. Mitchell
of Kennebec County.

Prayer by Senator Christine R. Savage of Knox County.

SENATOR SAVAGE: Good morning. Let us be in the spirit of prayer. Heavenly Father, we ask Your blessing on these men and women as they face difficult issues in the coming days. Grant us patience and grant us wisdom to make decisions that are in the best interest of our people. Father, we ask that You watch over those families at home who have sacrificed so much that we might serve. Be with our armed forces, past and present, who have given so much so that we can continue to have the freedoms that we take for granted. Let us not lose sight of the blessings You have given us and, Lord, there are many. We ask all this in Your heavenly name. Amen.

Reading of the Journal of Wednesday, June 1, 2005.

COMMUNICATIONS

The Following Communication: H.C. 273

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

June 1, 2005

Honorable Joy J. O'Brien
Secretary of the Senate
122nd Legislature
Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Improve the Water Quality of Hall Pond in Paris" (H.P. 306)(L.D. 421).

Representative WATSON of Bath
Representative WHEELER of Kittery
Representative HANLEY of Paris

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Decrease Correctional Costs and To Increase the Number of Probation Officers"
H.P. 375 L.D. 500

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

Signed:

Senators:

DIAMOND of Cumberland
NUTTING of Androscoggin
CLUKEY of Aroostook

Representatives:

PLUMMER of Windham
GREELEY of Levant
CHURCHILL of Washburn
GERZOFISKY of Brunswick
SYKES of Harrison
GROSE of Woolwich
DAVIS of Augusta
PARADIS of Frenchville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-614).**

Signed:

Representatives:

BLANCHETTE of Bangor
HANLEY of Gardiner

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Concerning the Regulation of Certain Information to Protect Privacy"

H.P. 1156 L.D. 1638

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

Signed:

Senators:

SULLIVAN of York
MAYO of Sagadahoc

Representatives:

PERRY of Calais
McKANE of Newcastle
PILON of Saco
VAUGHAN of Durham
GLYNN of South Portland
RICHARDSON of Warren
MARRACHÉ of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-516)**.

Signed:

Senator:

MILLS of Somerset

Representatives:

BRAUTIGAM of Falmouth
LINDELL of Frankfort
HARLOW of Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County"

H.P. 1111 L.D. 1573

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-563)**.

Signed:

Senators:

GAGNON of Kennebec
MITCHELL of Kennebec
PLOWMAN of Penobscot

Representatives:

FISHER of Brewer
PINKHAM of Lexington Township
PATRICK of Rumford
TUTTLE of Sanford
HOTHAM of Dixfield
MOORE of Standish
BROWN of South Berwick

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

Signed:

Representatives:

VALENTINO of Saco
OTT of York
BLANCHETTE of Bangor

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

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-563)**.

Reports **READ**.

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

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, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Allow Counties a One-year Exemption For Jail Costs from the Limitation on County Assessments"

H.P. 1175 L.D. 1666

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-535)**.

Signed:

Representatives:

McFADDEN of Dennysville
MOULTON of York
BISHOP of Boothbay
SAMPSON of Auburn
BARSTOW of Gorham
BLANCHARD of Old Town
MUSE of Fryeburg
SCHATZ of Blue Hill
HARLOW of Portland

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

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representative:

CROSTHWAITE of Ellsworth

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-535) AS AMENDED BY HOUSE AMENDMENT "B" (H-617)** thereto.

Reports **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

Nine members of the Committee on **TAXATION** on Bill "An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner"

H.P. 459 L.D. 626

Reported in Report "A" that the same **Ought Not to Pass**.

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

HANLEY of Paris
CLARK of Millinocket
WOODBURY of Yarmouth
PINEAU of Jay
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath
McCORMICK of West Gardiner

Three members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-590)**.

Signed:

Senators:

PERRY of Penobscot
COURTNEY of York

Representative:

BIERMAN of Sorrento

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-591)**.

Signed:

Representative:

CLOUGH of Scarborough

Comes from the House with Report "A", **OUGHT NOT TO PASS READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **STRIMLING** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF ANY REPORT**.

Senate

Ought to Pass As Amended

Senator **HOBBS** for the Committee on **JUDICIARY** on Bill "An Act To Clarify That Certain Maine Landowner Liability Protection Laws Apply to Abandoned Railroad Corridors"

S.P. 593 L.D. 1611

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-314)**.

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

READ ONCE.

Committee Amendment "A" (S-314) **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 GAGNON for the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, To Establish a Study Commission To Study Methods To Improve Ballot Access (EMERGENCY)

S.P. 590 L.D. 1608

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-316)**.

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

READ ONCE.

Committee Amendment "A" (S-316) **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.

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

ENACTORS

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

Mandate

An Act To Establish Harbor Master Standards and Training Requirements

S.P. 584 L.D. 1603
(C "A" S-207)

Comes From the House, Bill and accompanying papers **INDEFINITELY POSTPONED**.

On motion by Senator **DAMON** of Hancock, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207)**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-207).

On further motion by same Senator, Senate Amendment "A" (S-234) to Committee Amendment "A" (S-207) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President, men and women of the Senate. This particular bill, the bill to Establish Harbormaster Standards and Training Requirements, in my opinion and the opinion of the Marine Resources Committee, is vitally important. It's important to our municipalities to have people who have training to know their role is in supervising their harbors so that they don't either put their municipalities into jeopardy by doing something of which they are not supposed to or that they put themselves in jeopardy. It's also important to the state and it's important to the country because, indeed, these harbor masters, whether they are harbor masters in small towns or cities along the coast, are the first responders to any kind of threat that comes to these shores via our harbors. They are the first responders until such time as the Coast Guard can get on the scene. It is important for them to know that role. It's important for them to understand it and it is important for them to carry it out for their communities and for us entirely. To have a modicum of training, training that will cost \$130 per participant, and that is the problem, is not unreasonable in my mind and certainly in the mind of the committee. That is why it came out of the committee with a unanimous committee support. Now, because it does have a mandate, it requires us to support it fully. So I am urging you to consider that as it comes to the vote. It's important for all of us for the security of the United States and it's important for the proper maintenance of harbors. We certainly would not want to put a law enforcement officer out on the road without training because of the liability that is incurred. This is no different. Though they don't have the powers of arrest, they certainly do have the powers of authority and control within that harbor boundary. This needs to be taken seriously. This is the opportunity for it to be taken that way. I would urge your support of this motion. Thank you very much, Madame President.

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

Senator **ANDREWS:** Thank you, Madame President and fellow members of the Senate. I back up my Senator from the other side of the aisle. I am the Republican Senator that serves on that committee. This was a unanimous report. I am generally not one that signs on to mandates, but as September 11th taught us and what we've seen since then, we need to be prepared. Our Coast Guard is stretched extremely thin. We're asking them to do more and more. We're asking truck drivers to be on the lookout and to watch for things that are suspicious. It behooves us, for these people who are there everyday on the waterfront, observing what comes and goes, to be properly trained to be our frontline defense. I would ask you to support this amendment. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I also serve on the Marine Resources Committee. Everything you have heard is true. It is one of the few times that we have come together. This is the second legislative group. The 121st heard the same thing. We are talking, in the breakdown of the \$130, of \$50 to belong to the Harbormaster's Association, and \$60 for a week-long course. Originally this required a background check that would have added money to it. It required a second more advanced course.

We took that out. In trying to come up with a unanimous report, we took it out and got it down to bare level. Here is the direction from the Coast Guard to our harbormasters, you are the eyes and ears of our small harbors in Maine. We have plenty of nooks and crannies. \$130 for training. That's a heck of a deal for our security. I would ask anybody to find where we could offer security at the number of municipalities that have waterways. The world has changed since 9/11. We need to be willing to put some money, \$130 is what the municipalities will pay. Many of those municipalities, mine included, already pay and belong to the association. Prior to 9/11 it was probably just some local people, somebody who was out boating and they were in trouble and the harbormaster goes out and makes sure everybody is paying the mooring fees. The world has changed. I would ask you to please sign on. It was a unanimous report and we never got a chance in this chamber to show you the unanimous report. I would ask you to please support my fellow Senators. Thank you.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-234) to Committee Amendment "A" (S-207) **ADOPTED**.

Committee Amendment "A" (S-207) as Amended by Senate Amendment "A" (S-234) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENT "A" (S-234) thereto, in NON-CONCURRENCE.

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 **BRYANT** for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Fish and Wildlife Laws"

S.P. 344 L.D. 1004

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-317)**.

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

READ ONCE.

Committee Amendment "A" (S-317) **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.

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

Senate at Ease.

Senate called to order by
President Pro Tem **ELIZABETH H. MITCHELL**
of Kennebec County.

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

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

RECESSED until 11:30 in the morning.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County"
H.P. 1111 L.D. 1573

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-563)** (10 members)

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

Tabled - June 2, 2005, by Senator **GAGNON** of Kennebec

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

(In House, June 1, 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-563)**.)

(In Senate, June 2, 2005, Reports **READ**.)

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

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Ordered)

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Allow Counties a One-year Exemption For Jail Costs from the Limitation on County Assessments"

H.P. 1175 L.D. 1666

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-535)** (9 members)

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

Tabled - June 2, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 1, 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-535) AS AMENDED BY HOUSE AMENDMENT "B" (H-617)** thereto.)

(In Senate, June 2, 2005, Reports **READ**.)

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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 To Increase Access to Justice in Maine's Court System"
H.P. 1065 L.D. 1518

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-620)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620)**.

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

READ ONCE.

Committee Amendment "A" (H-620) **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:

COMMUNICATIONS

The Following Communication: S.C. 372

MAINE STATE LEGISLATURE COMMITTEE ON JUDICIARY AUGUSTA, MAINE 04333

June 2, 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 bills out "Ought Not to Pass":

- L.D. 644 An Act To Prohibit Discrimination in Housing
- L.D. 838 An Act To Amend the Uniform Unclaimed Property Act As It Applies to Gift Cards
- L.D. 1474 An Act To Require That Corporations Be Operated in a Manner That Does Not Adversely Affect the Public Interest
- L.D. 1495 An Act To Limit Corporate Influence Over the Political Process

We have also notified the sponsors and cosponsors of each bill listed 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:

ENACTORS

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

Emergency Measure

An Act To Restore Fair MaineCare Payments to Critical Access Hospitals

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

This being an Emergency Measure and 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 **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act Regarding Transition Provisions for the Sharing of Costs in Certain School Districts

H.P. 1189 L.D. 1684

This being an Emergency Measure and 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 **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

All matters thus acted upon 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:

Emergency Resolve

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

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

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 Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights

H.P. 182 L.D. 243
(S "A" S-270 to C "A" H-220)

An Act To Amend the Laws Governing Mechanics Liens

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

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 Increase Eligibility for the Property Tax Exemption for Veterans'

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

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

An Act To Change Nonresident Income Tax Filing Requirements

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

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 Improve the Operation of Underground Damage Prevention Procedures

H.P. 254 L.D. 331
(C "A" H-558)

An Act Regarding Divorce and Marital Property
H.P. 454 L.D. 621
(C "A" H-496)

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 Require That Directors within the Department of Agriculture, Food and Rural Resources Be Unclassified
S.P. 270 L.D. 815
(C "A" S-249)

An Act To Provide Greater Civil Relief Protection for Members of the Military
H.P. 610 L.D. 859
(C "A" H-538)

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:

Acts

An Act To Improve Warranty Practices for Farm Machinery Dealerships

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

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 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)

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

ORDERS OF THE DAY

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

HOUSE REPORTS - the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County"
H.P. 1111 L.D. 1573

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-563)** (10 members)

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

Tabled - June 2, 2005, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Ordered)

(In House, June 1, 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-563)**.)

(In Senate, June 2, 2005, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

An Act To Amend the Electronic Insurance Cancellation Notification Law

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

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 Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid

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

ROLL CALL (#215)

YEAS: Senators: BRYANT, COURTNEY, DAMON, DAVIS, GAGNON, HASTINGS, MARTIN, MAYO, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, WESTON, WOODCOCK

NAYS: Senators: ANDREWS, BARTLETT, BRENNAN, BROMLEY, CLUKEY, COWGER, DIAMOND, DOW, HOBBS, MILLS, NASS, ROTUNDO, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: TURNER

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator GAGNON of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-563) **READ** and **ADOPTED**, in concurrence.

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

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

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

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Allow Counties a One-year Exemption For Jail Costs from the Limitation on County Assessments"

H.P. 1175 L.D. 1666

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-535)** (9 members)

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

Tabled - June 2, 2005, by Senator **SCHNEIDER** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 1, 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-535) AS AMENDED BY HOUSE AMENDMENT "B" (H-617)** thereto.)

(In Senate, June 2, 2005, Reports **READ**.)

Senator **SCHNEIDER** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. My track record hasn't been really great so far. I'm going to try one more time. Can I give you some background on this bill? During the days and nights of L.D. 1, there was one issue that the committee had difficulty with and it was the cap on county government. I'm sure you have all had calls at different times as a legislator about the unexpected expenses that happen in county government. That was understood and this issue was given to the State and Local Government Committee. I think they do have a solution that is workable and it is in the other report. It recognizes that you cannot, as a county sheriff, ever really do a budget that you can be confident of. A cap that says you will take prisoners that the state is giving you, you will have mandates that you have no idea what is going to happen with, and you are still going to remain under the cap. If you support the Ought Not to Pass report you are saying to your country sheriff and to the county government too bad.

On a Sunday afternoon I got a call from my county sheriff who had a prisoner who had been assessed psychologically as actually needing to come to our state hospital. They said they had no room for him. This is a scenario we're familiar with. I've heard it many times since I've been a legislator. This case was a little different. They said to my sheriff, 'You can bring him in if you post a deputy outside the door.' The sheriff brought the prisoner in and was told that it was going to be for 24 hours. When he arrived he was told it was going to be for 5 days. Could he put that in is budget? A 24 hour deputy patrol outside a hospital room at Riverview? Those are exactly the kinds of things that need some special consideration. It is unlike a school district, where they can prepare a budget and it can be voted up or down as to whether it is going to go over the cap. How does a county sheriff prepare a budget that says, 'I know I'm going to be over the cap by this amount, so you need to vote for that'?

We're asking for special consideration and if we could move on to an amendment that has been passed, I think that we have a good solution to that problem. Otherwise, we are saying we are going to ignore the problem. Even the committee on Taxation saw that this required a solution. To support this motion, we will even ignore their wishes. Thank you.

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

Senator **ANDREWS:** Thank you, Madame President, fellow men and women of the Senate. I am on the minority report. I understand the problem. I realize the jails do have problems,

unforeseen problems, but there is a mechanism in L.D. 1 to allow for an override. If that was not there, I could go along with doing something. The ink is hardly dried on L.D. 1 and they are beginning to line up at the troth to get exemptions. If there truly is a need to override the cap there is a mechanism to do so. I say to you, if we are ever going to promote and accomplish regionalization, people have to learn to work together. In this case, the parties involved have not always worked real well together. If we are ever going to realize and bring down the costs to run all levels of government, everyone has to work together. It just isn't right to exempt one and not others. If there was no mechanism there for overriding the cap, I would not be on the minority report. Let's give L.D. 1 a chance to work. If there is a crisis, if there are problems, there is a mechanism to override the cap. Thank you.

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

Senator **GAGNON:** Thank you, Madame President. The good Senator from York, Senator Andrews, stole much of my thunder, but I did want to add a couple of other points in hoping that we will accept the minority Ought Not to Pass report. In review, there is already a mechanism in place for the override. Again, the ink is not dry on L.D. 1 yet and we are already talking about taking chunks out of L.D. 1 for exceptions and exclusions. It is also my understanding, and please correct me if I'm wrong, that the Commissioner of Corrections has money in the budget. I heard it's something like \$600,000 for a study to look at this entire issue and is obviously encouraging people from county government to join in this effort. All I can say is, if we can make an exception for this, then healthcare issues at the school levels and municipal levels and all of these exceptions are certainly eligible. I also believe that, from what I can see in the majority Ought to Pass report, we are still placing another cap. We're just increasing the cap. Not only are we getting rid of caps, we're tinkering with caps and it's only for some things and not other things. Let the bill work, let it go through its process, and if a cap needs to be overridden then there is a process for that within L.D. 1. Let L.D. 1 work. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I rise today in agreement with the good Senator from Waldo, Senator Weston, on this issue, which is not unusual. We served together on the Utilities and Energy Committee and on many reports we have come to find common ground. The concern that I've had with L.D. 1 when we were discussing it was what about county jails. This isn't a new problem that has sprung up and we weren't aware of. This is something that we all predicted when we were dealing with L.D. 1. We knew this was something that had to be addressed. Questions were raised. I've talked to many of my colleagues about this issue. We all felt that we could deal with this L.D. 1 now and then try to resolve the jail issue. I've heard many possible solutions from the state taking over the jails to many other creative solutions in between. No solution has been forthcoming. Therefore the counties are left in the same place they were then. I would say that this issue was thought of in the context of L.D. 1. This isn't a case of the statutory caps being in place, the ink being fairly dry, and us trying to change it. We

knew at the time it was a problem. We talked about the need to change it. It's for those reasons that I will be opposing the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President, men and women of the chamber. Some months ago I rose and asked you to support L.D. 1. I think in my comments I described it as not being perfect but not being pathetic either. This is one of the imperfections of L.D. 1. I said at the time, and I said during our deliberations in the committee, that, to me, the jails and the problems that they pose to the counties are the exact same problems that schools pose to municipalities in terms of their financial burdens. They maybe even worse because of their unpredictability. The good Senator from Waldo, Senator Weston, has mentioned that. Those stories can be told throughout this state with regards to jail budgets. I really had hoped that the reference of this particular bill to the State and Local Government Committee would have come up with a sound solution to that problem. I don't believe that it has. Failing that, and recognizing that there is money still available to try to come up with a solution to that in terms of a study solution, and also recognizing, as my good friend the Senator from York, Senator Andrews, mentions, that L.D. 1 does provide an opportunity to override a budget for extraordinary circumstances with the vote of the people, I will be rising in support of this motion, which is Ought Not to Pass. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. We spent a great deal of time in our committee working on this piece of legislation and, in fact, though I am supporting the Ought Not to Pass motion, it is with disappointment that we couldn't come to, what I feel, a reasonable solution. This is a huge problem, the jails. I think we all agree with that. I think rushing this at this point in time with a half-baked amendment would be the improper thing to do. I am very appreciative of my good colleague from Hancock, Senator Damon's words, that with the study coming forward this is a much more reasonable way to look at this problem and let L.D. 1 work. Hopefully it will. Hopefully the people in the communities will understand that jails are a tremendous problem and that there are cost drivers that they cannot control. In some ways I'm reaching out to the communities now to say please be reasonable and understand those cost drivers. If it is necessary to lift the caps, vote in favor of lifting the caps as it is proposed in L.D. 1. That mechanism is there. We hope to come forward in the future with a real answer to the jail problem. I would appreciate your support of the Ought Not to Pass motion. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you very much, Madame President, ladies and gentlemen of the Senate. I'm going to make reference to the old school funding formula, if I might, in support of the motion, Ought Not to Pass. I really feel quite uncomfortable in doing so this afternoon because we have an

expert in the chamber in the good Senator from Cumberland, Senator Brennan, who is extremely knowledgeable about the old school funding formula. I am sure he is about the EPS formula also. When we funded the school districts through the old school funding formula, we used to buffer those districts who perceived they had been underfunded. Because of that buffering over the course of several bienniums, we had to arrive at a new funding formula for schools. We now have the EPS formula. I am not, and have not and will not, be a supporter of L.D. 1, because we keep arriving at exceptions to the rules. However, the good Senator from York, Senator Andrews, raises the very interesting point that this problem has been a problem of the jails being unable to communicate and cooperate with one another. It is a unique situation with jails. The state has exacted a heavy cost upon them. A cost for which often they are not responsible, directly, for. However, and I say again, however if we continue to make exceptions to the rules we will be back where we were with the old school funding formula. This buffering does not work. I encourage the jails of Maine, I encourage the administration of this state and the Chief Executive Officer, to examine the jails closely because they continue to be a very cost driven entity, not of their own accord. Thank you, Madame President.

On motion by Senator **DAVIS** of Piscataquis, 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 Penobscot, Senator Schneider 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 (#216)

YEAS: Senators: ANDREWS, BRENNAN, BROMLEY, BRYANT, COURTNEY, COWGER, DAMON, DIAMOND, DOW, GAGNON, HASTINGS, HOBBS, MARTIN, MILLS, MITCHELL, NASS, PLOWMAN, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BARTLETT, CLUKEY, DAVIS, NUTTING, PERRY, RAYE, WESTON

ABSENT: Senators: MAYO, TURNER

26 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down 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 Regarding Child Protection Proceedings
H.P. 618 L.D. 867
(C "A" H-545)

An Act To Increase Access to Information Regarding Referendum Questions
H.P. 621 L.D. 870
(C "A" H-505)

An Act To Promote Parity in the Laws Governing Smoking in the Workplace
S.P. 294 L.D. 886
(C "A" S-261)

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 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)

Resolve, Concerning Temporary Guardianship Laws
H.P. 81 L.D. 105
(C "A" H-541)

Resolve, Directing the Department of Health and Human Services To Study Initiatives for Local Pharmacies Participating in the MaineCare Program
H.P. 437 L.D. 604
(C "A" H-556)

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 Pursuant to Statute

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding Energy Codes"

H.P. 1191 L.D. 1685

Reported that the same **Ought to Pass**, pursuant to the Maine Revised Statutes, Title 5, section 3327, subsection 4.

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.

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 **INSURANCE AND FINANCIAL SERVICES** on Resolve, To Reestablish the Health Care System and Health Security Board (EMERGENCY)

H.P. 35 L.D. 32

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-513)**.

Signed:

Senators:

SULLIVAN of York
MAYO of Sagadahoc
MILLS of Somerset

Representatives:

PERRY of Calais
BRAUTIGAM of Falmouth
PILON of Saco
GLYNN of South Portland
RICHARDSON of Warren
MARRACHÉ of Waterville
HARLOW of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-514)**.

Signed:

Representatives:

McKANE of Newcastle
LINDELL of Frankfort
VAUGHAN of Durham

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)**.

Reports **READ**.

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report, in concurrence.

On motion by Senator **DAVIS** of Piscataquis, **TABLED** until Later in Today's Session, pending the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report, 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 **UTILITIES AND ENERGY** on Bill "An Act To Encourage the Use of Solar Energy"

H.P. 1122 L.D. 1586

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-615)**.

Signed:

Senators:

BARTLETT of Cumberland
COWGER of Kennebec
WESTON of Waldo

Representatives:

BLISS of South Portland
FITTS of Pittsfield
BABBIDGE of Kennebunk
BRAUTIGAM of Falmouth
FLETCHER of Winslow
ADAMS of Portland
McLEOD of Lee

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-616)**.

Signed:

Representatives:

CURTIS of Madison
RICHARDSON of Skowhegan
RINES of Wiscasset

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**.

Reports **READ**.

On motion by Senator **BARTLETT** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-615) **READ** and **ADOPTED**, in concurrence.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (4/7/05) Assigned matter:

SENATE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Reduce the Minimum Participation Requirements of Insurance Carriers"
S.P. 89 L.D. 269

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-73)** (6 members)

Tabled - April 7, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report (Roll Call Ordered)

(In Senate, April 7, 2005, Reports **READ**.)

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

Senator **PLOWMAN:** Thank you, Madame President. I won't talk long. We have debated this one other time but the bill has been held for almost 8 weeks, so I thought it would be time to update you. This bill lowers the minimum requirement for a small business when they re-enroll or sign up their employees again, after their initial application and becoming an insured company. This lowers the rate to 70%. Right now we have a 75% renewal rate. The company that came before the committee, neither for nor against, was talking about how they lose one small business a week out of this one agency because they drop below the minimum upon renewal. This is a small effort to help small businesses with eligible employees of 10 and under to say that if we want to offer our people insurance as a benefit we should be able to do so. We shouldn't lose out because we have 7 employees instead of 8. With 10 eligible employees, a 75% participation rate means that I have to have 7.5 employees participating. There are no halves. We know the difference between 7 and 8. In our business it means that you are no longer insured. It's a reasonable effort to help small businesses continue to offer benefits to their employees and help them and their spouses and their dependents stay insured. Thank you very much. I ask you to please oppose this motion and help these people just a little bit. It's just one-half of an employee. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I agree, we have debated this and I agree that it's been hanging around much too long. I really would like to spend 4th of July with my family. Having said that, I will be very quick. This bill affects exactly two businesses as far as numbers. Those who have 10 and those who have eight. Mathematically it is impossible to affect anybody else. When an insurance company decides on a premium, they take the least number that could be insured and then they multiply it and lots of other things and come up with a premium. They have to have, for the fiduciary idea of perils, a number of a certain amount. If we lower that, even by 5%, and go to 70%, what the fiduciaries will do is they will figure that in. They no longer have the critical mass to be able to cover a high risk person within that business. By the mathematical figuring of 75% to 70% you affect only those businesses that have 10 and those businesses that have 8. It does nothing else and you run the risk of affecting the business premium rate for all of the other sized businesses that are considered small. It was the decision, and we have had this before. I would ask you to support it. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Sullivan 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 (#217)

YEAS: Senators: BARTLETT, BRENNAN, BRYANT, DAMON, GAGNON, HOBBS, MILLS, SCHNEIDER, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, BROMLEY, CLUKEY, COURTNEY, COWGER, DAVIS, DIAMOND, DOW, HASTINGS, MARTIN, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SNOWE-MELLO, STRIMLING, WESTON, WOODCOCK

ABSENT: Senators: MAYO, TURNER

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-73) **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.

Off Record Remarks

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

Senator **SAVAGE** of Knox requested and received leave of the Senate that all members and staff be allowed to remove their jackets for the remainder of the Session.

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

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, Directing the Department of Professional and Financial Regulation and the Maine Community College System To Develop a Proposal To Certify Home Repair Tradespersons To Perform Limited Plumbing and Electrical Work
H.P. 987 L.D. 1423

Majority - **Ought to Pass** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 26, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **BROMLEY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, May 26, 2005, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.)

(In Senate, May 26, 2005, Reports **READ**. On motion by Senator **BROMLEY** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**. On motion by Senator **GAGNON** of Kennebec, **RECONSIDERED**.)

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

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

The Chair laid before the Senate the following Tabled and Later (5/31/05) Assigned matter:

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)

Tabled - May 31, 2005, by Senator **MAYO** of Sagadahoc

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, May 26, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-512).)

(In Senate, May 31, 2005, **READ A SECOND TIME**.)

PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/31/05) Assigned matter:

Bill "An Act To Amend Water Quality Standards"
S.P. 496 L.D. 1450

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

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-291)**

(In Senate, May 31, 2005, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (S-291) **READ**.)

On motion by Senator **COWGER** of Kennebec, Senate Amendment "A" (S-315) to Committee Amendment "A" (S-291) **READ.**

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

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. This amendment is a purely technical amendment that just clarifies several provisions of this bill and I hope you will all join me in adopting it.

On further motion by same Senator, Senate Amendment "A" (S-315) to Committee Amendment "A" (S-291) **ADOPTED.**

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 pending question before the Senate is the motion to Adopt Committee Amendment "A" (S-291) as Amended by Senate Amendment "A" (S-315) thereto. 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 (#218)

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

NAYS: Senators: **BRENNAN, ROTUNDO**

ABSENT: Senators: **MAYO, TURNER**

31 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 2 Senators being absent, Committee Amendment "A" (S-291) as Amended by Senate Amendment "A" (S-315) thereto, **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-291) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/1/05) Assigned matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Require Publicly Funded Entities To Report Undocumented Illegal Aliens"

H.P. 732 L.D. 1079

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-581)** (5 members)

Tabled - June 1, 2005, by Senator **BRENNAN** of Cumberland

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

(In House, June 1, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, June 1, 2005, Reports **READ.**)

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in 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 **BROMLEY** for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Replace the Interagency Task Force on Homelessness and Housing Opportunities with the Statewide Homeless Council"
S.P. 624 L.D. 1678

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-320).**

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

READ ONCE.

Committee Amendment "A" (S-320) **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.

All matters thus acted upon 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:

Act

An Act To Increase Retired Teachers' Health Insurance Benefits
H.P. 535 L.D. 758
(C "A" H-410)

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

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/31/05) Assigned matter:

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

Tabled - May 31, 2005, by Senator **NUTTING** of Androscoggin

Pending - **FURTHER CONSIDERATION**

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

(In House, May 31, 2005, **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, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED** Committee Amendment "A" (H-484).

House Amendment "A" (H-546) to Committee Amendment "A" (H-484) **READ**.

On motion by Senator **NUTTING** of Androscoggin, House Amendment "A" (H-546) to Committee Amendment "A" (H-484) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-309) to Committee Amendment "A" (H-484) **READ** and **ADOPTED**.

Committee Amendment "A" (H-484) as Amended by Senate Amendment "A" (S-309) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484) AS AMENDED BY SENATE AMENDMENT "A" (S-309) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

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

On motion by Senator **BRENNAN** of Cumberland, **RECESSED** until 3:30 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Require the Net Proceeds from the Sale of a Foreclosed Property To Be Returned to the Former Owner"
H.P. 459 L.D. 626

Report "A" - **Ought Not to Pass** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-590)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-591)** (1 member)

Tabled - June 2, 2005, by Senator **STRIMLING** of Cumberland

Pending - **ACCEPTANCE OF ANY REPORT**

(In House, June 1, 2005, Report "A", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

(In Senate, June 2, 2005, Reports **READ**.)

Senator **PERRY** of Penobscot moved the Senate **ACCEPT Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590), in NON-CONCURRENCE.**

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a bill we've had a number of years in a row and we have been unable to pass it, although I think I would have liked to have passed the bill as it was written. If a municipality forecloses on a property and they sell that property at auction, it could be for \$5,000 or \$6,000 in back taxes, for \$1 million, they keep all the net proceeds. They do not have to return it to the owner of the property. They can make a very substantial windfall. I believe they should return all of that money, after expenses or even a penalty to the owner. We have never been able to get there, so the Senator from York, Senator Courtney, and I came up with a report that simply states that if somebody's piece of property is foreclosed by a municipality and sold at auction with a net proceed of more than \$10,000 after all expenses, they need to take a legal notice out in the newspaper saying who's property they took, what the expenses were, how much they sold it for, and what the net profit is. They need to advertise it to the community and let them know that they took someone's home and made more than \$10,000 on it. That is what this amendment does and I think it is worthy of support. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I'd just like to agree with the Senator from Penobscot, Senator Perry. I think this is a good way to address this problem that we faced in the last session. I think it probably came before I was here as well. We've heard in the committee that most municipalities don't do it. I think that this approach will just shine the light where it is done and send it back. It's a local control issue. It will give the people of the towns a tool to do something with. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. This issue is a perennial issue. It crops up every biennium. I have several things to say about it. Number one, I have not really heard of any one instance where a former property owner, who was deprived of title by a town, was not treated fairly by the town that took title and had a foreclosure sale. You can imagine such a thing, but I have not seen it. Most of the properties, 98% of the properties, that are let go for back taxes are properties that aren't worth the amount of the taxes that are due. It is almost unheard of, at least in my 30 odd years of legal practice, that a property worth, let's say, \$100,000 or \$200,000 is let go for something like \$10,000 in back taxes. It just doesn't happen. I don't think that people can come forward with any examples of where it has happened. If it has happened, almost every town that I know of treats the owner with some matter of

grace and for forgiveness and charity and makes the adjustments at the local level.

The concern I have about Report B, the Ought to Pass motion, is that if you enact a law that makes it a requirement for municipalities to go out and take a further procedure after they acquire title and have a sale, it will lead the status of that title even more uncertain than it is already because title by town foreclosure is not a favored way of gaining title. If somebody wants to buy one of those pieces of property, I always recommend, first of all, that they pay very little money for it and reserve enough money to hire legal counsel to go out and sue everybody back in the title for what they call a quiet title action to make sure that they are permanently foreclosed from ever claiming an interest in the property. If you inject a new and further procedure for the towns to go through, it seems to me that it makes the title that the town acquires even more uncertain, more difficult, and more expensive for these towns to follow through on. We've had these discussions on the floor of both chambers over the years. I agree with the majority in this case, voting Ought Not to Pass has the better part of the issue and that is the way I intend to vote. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. Amendment "B" doesn't do anything to change the existing process except it requires, after the fact, that the municipality, if they profit more than \$10,000 after all expenses, to take out notice and explain how much money they made on the sale of the property. That is all this amendment and this report does. I would urge your support. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry to Accept the Report "B", Ought to Pass as Amended by Committee Amendment "A" (H-590). A Roll Call has been ordered. Is the Senate ready for the question?

The Chair ordered a Division. 24 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PERRY** of Penobscot to **ACCEPT Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590), in NON-CONCURRENCE, PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-590) **READ and ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-590), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Resolve, To Reestablish the Health Care System and Health Security Board (EMERGENCY)
H.P. 35 L.D. 32

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-513)** (10 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-514)** (3 members)

Tabled - June 2, 2005, by Senator **DAVIS** of Piscataquis

Pending - motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report, in concurrence

(In House, June 2, 2005, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)**.)

(In Senate, June 2, 2005, Reports **READ**.)

On motion by Senator **SULLIVAN** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-513) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513)**, in concurrence.

Off Record Remarks

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 **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Maine Life and Health Insurance Guaranty Association Act"

H.P. 652 L.D. 933

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-621)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-621)**.

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

READ ONCE.

Committee Amendment "A" (H-621) **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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **HOBBS** for the Committee on **JUDICIARY** on Bill "An Act To Promote the Commonsense Consumption of Food"
S.P. 200 L.D. 645

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-324)**.

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

READ ONCE.

Committee Amendment "A" (S-324) **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 **HOBBS** for the Committee on **JUDICIARY** on Bill "An Act To Preserve the Medical Liability Climate in the State by Capping Noneconomic and Punitive Damages"
S.P. 476 L.D. 1378

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-323)**.

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

READ ONCE.

Committee Amendment "A" (S-323) **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.

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

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

COMMUNICATIONS

The Following Communication: H.C. 277

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

June 2, 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 Business, Research and Economic Development on Bill "An Act Concerning the Measurement of Firewood" (H.P. 1005)(L.D. 1441)

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/12/05) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act Allowing Certain Commercial Vehicles at Canadian Weight Limits To Travel from the Canadian Border at Houlton to New Limerick and from the Canadian Border at Calais to Baileyville"

H.P. 257 L.D. 334

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-261)** (12 members)

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

Tabled - May 12, 2005, by Senator **DAMON** of Hancock

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

(In House, May 11, 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-261)**.)

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

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

READ ONCE.

Committee Amendment "A" (H-261) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "A" (S-319) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-261) AND SENATE AMENDMENT "A" (S-319), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/23/05) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Require Proof of Equipment Ownership for Employers Using Foreign Laborers"

H.P. 525 L.D. 730

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-372)** (8 members)

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

Tabled - May 23, 2005, by Senator **STRIMLING** of Cumberland

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

(In House, May 20, 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-372)**.)

(In Senate, May 23, 2005, Reports **READ**.)

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 ask that you not support the current motion which is on the table and vote Ought Not to Pass on L.D. 730. This bill would target the U.S. Department of Labor's H-2B program that allows employers to hire a certain quota of foreign workers when U.S. labor forces is unavailable or insufficient to meet the needs of the employer. L.D. 730 would require an employer of H-2B workers to show proof of ownership of equipment before such workers could be employed in Maine. That means when an employer wants to hire a foreign worker on a large piece of logging equipment they have to provide proof to the Department of Labor that they actually own that equipment. This is another regulation and it is not good for the employer because it forces them to provide more documentation to the Department of Labor. This change, which L.D. 730 would do, would have the effect of preventing workers who own his or her own equipment from qualifying to work in Maine under the H-2B program. The logging industry would not hire H-2B workers if there were plenty of American workers to do the job. This practice exists only if there is a need. This program would never have been brought forth with an agreement made with Canada if the logging business did not have a need for the workers. I really need to stress that. Foreign laborers are required when the industry absolutely needs their help to get their products out.

Should we adopt this into law, it would impact the availability and the price of wood fiber. Under worse case conditions, this could result in temporary mill shut-downs. Maine's pulp and paper industry makes up 16% of the state's manufacturing workforce and accounts for 22% of all manufacturing wages. Maine's Pulp and Paper Association member companies pay their employees the highest average annual wage rate of any manufacturing sector in this state.

There have been numerous studies over the last decade that have examined various aspects of Maine's forest economy, including the impact of Canadian bonded labor on U.S. forestry workers. These studies focused on two major concerns; wages and working conditions for logging professionals in Maine and the effect of federal H-2B labor programs on Maine forestry workers and the overall Maine economy. With respect to the H-2B visa program, the report concluded that Canadian bonded labor does not depress wages on a statewide basis and that raising logging wages would still be unlikely to attract sufficient numbers of U.S. workers to meet current labor requirements. It is clear that the potential impact of loss of the H-2B workers, Canadian bonded labor, is essential to the flow of wood to markets in Maine. Loss of Canadian bonded labor would result in a 17% decline in saw logs and wood fiber for Maine's wood products industries. Raw material losses of this magnitude would directly impact 3,000 jobs, resulting in a ripple effect on Maine's economy of \$1.5 billion. Given the regions well documented decrease in logging capacity in the past few years, any additional obstacle to hiring H-2B loggers will only tighten wood supply markets and eventually have a negative impact on the regions' mills, employees, and rural communities.

I'm asking that this body oppose the majority report. You have received a number of handouts and I hope that you have read them. At a time when mills are seen shrinking inventory levels and cutting back on worker's shifts due to prolonged wet spring weather, which we certainly had this year, L.D. 730 will further limit harvesting capacity and have a detrimental effect on Maine mills. Geography is also a major factor in determining logging labor markets in Maine. A labor shortage in U.S. logging

workers does exist. We really should not take any chances on stopping this program. I ask that this body please oppose the majority report. Thank you very much.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. Let me try to put this in some perspective so you understand what and how this came before us. The present law, right now, requires that H-2B workers be certified by the Department of Labor. The federal law also sets the rates for equipment, when it is brought into this country, and the wages paid for those workers. Over the years that has been set and is set yearly for chainsaws and for skidders. If you don't know what a skidder is, I could go into that as well. However, the federal government has not made any additional changes in setting the rates for what is now being used in the woods; feller bunchers, delimitators, etc. Those rates are not set because the law requires that the equipment be supplied by the employer. What this bill does is to set a rate on the equipment.

This bill has nothing to do with whether or not H-2Bs are coming in to Maine. Not a single thing. H-2Bs will continue to be allowed into Maine when applied for by the employer as long as the federal government allows them. As you know, last year the federal government did not allow them until very late in the season. I want to put to bed once and for all the presumption that the mills didn't have enough wood last year. They did. There wasn't a single Maine mill that ran out of wood last year, even though there were no H-2Bs until very late and that was the assumption. We have none right now and the mills are not running out of wood. This is an issue that has no impact anywhere except along the border, which I represent and some of you do if you represent on the Canadian-Quebec border. That is where the H-2B persons come in.

What we have here is a bill that would simply say that the Department of Labor would set the rate for the equipment. It does not prevent H-2Bs from coming in. If the federal law allows it, they will come in. My amendment, that I will offer if we get to that stage, makes it clear that it does not apply to the rates that have already been set. We are not talking about changing the rates for skidders and chainsaws because those rates are there. That is already being done. The federal government, over the years, has not moved to set the rates on the other pieces of equipment even though the law says they are supposed to.

In petitions before the federal Department of Labor, they said if the states want to do it that is where it ought to be. Frankly, Maine is the only place that worries about these things. That is why the bill says that those rates will be set. If you are in favor of the small businessman of this state, you will vote for this bill because the people who are being disenfranchised along the border are Maine employers who employ Maine people who have their equipment sent home because of the bonded H-2B person that comes across with his equipment. Maine equipment gets sent back to Fort Kent and goes back to Frank Martin and Sons, no relation, who happens to sell the equipment. That's what happens to us. I want you all to understand, and you have a right to vote the way you want to, but don't let yourself believe that this has anything to do with H-2B workers coming into Maine. It has nothing to do as to whether or not we will stop them. It simply has to do with whether or not a rate will be set on the equipment that is used. That's what it does.

Some of you have on your desk, if you find it in all the papers we have, the *Wall Street Journal*. It is crap. There is no other way for me to say it. It is inaccurate and we have tried over and over again to correct it. They won't even take a letter from us. You have been lead to believe, or you have been told, that this would affect wood supplies. I guarantee you it will not. I guarantee you. Keep in mind one other factor, something you may not be aware of, that 90% of this wood, once it is harvested in Maine, goes to Quebec. A small portion of that wood does flow down to the mill in Skowhegan, but that is it because all of the rest of it is going across that border. For example, everything in Aroostook, beyond the St. John River, not one stick is coming into Maine. It is being harvested and taken out of this state. Maine contractors could be working. Small business people could be working. They could be making money and supplying us with wood and providing jobs for Maine people. I hope today that you will stand up, if not sit down and vote, for Maine people, Maine employers, and those people who want to work by voting yes.

On motion by Senator **BRENNAN** 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 Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I'm standing because I am concerned about Maine workers. I'm very concerned about Maine labor workers, good paying labor jobs that are provided by the paper industry. On your desks, under all the papers, you'll find a letter from the Pulp and Paper Worker's Resources Council opposed to this legislation. I hope you will have a look at that. I will be voting in opposition to the pending motion.

I appreciate the efforts of the good Senator from Aroostook, Senator Martin, but it is unfortunate that newspapers like the *Wall Street Journal* do have a large amount of power. In fact, people at the Lincoln Pulp and Tissue Mill have already been trying to expand and, because of this bill, has met with great difficulty in getting financing for that expansion. Those are jobs too. Even the perception that this bill could hurt jobs, I just don't think we can take that chance given the situation today. If you think we can risk losing more good paying labor jobs, go ahead and vote for the motion. I don't want to sit here next year and see mills closing because we passed this piece of legislation. I hope you will vote against the pending motion. Thank you, Madame President.

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

Senator **BRYANT:** Thank you, Madame President, men and women of the Senate. I just want to rise and respond a little bit about the paper that the good Senator was talking about from the Pulp and Paper Worker's Resources Council. I'll give you a little background. When I was President of the Local 900 out of the Rumford mill, I brought this council to Maine and to the northeast and we created that. It is a council that tries to work with the mills. I haven't had a chance to talk to the president of the council lately, but I think he is in error as far as judgment on what this means to the jobs. When the Taskforce went to Fort Kent and when we went up into the northern part of Maine, sometime within

the last two years when I was the chair of the Agriculture Committee, we looked over all of those issues up there. We told the people in the top part of Aroostook County that, when we came back from gathering our information and worked on the issues of the workers up there, we would try to help them stabilize their wood industry. Their comment was, when we were in public hearings, that they didn't believe us. They didn't dare to come up and testify. They didn't dare to take on any contractors because there are great penalties for them in that area. If you are a worker up there and you stand up for your rights, there are penalties to be had.

I take this bill as one of the commitments that we came back with. When we came back from the meetings up there we said we would try to deliver some relief up there. All this does is say that if you are going to bring equipment in, we have a ringer. I don't think that's too much to ask. I think most of the wood that we are talking about here does go to Canada. I think the Senator from Aroostook, Senator Martin, is correct that there is some that does find its way to Sappi. I think this is a good piece of legislation. I think the committee that went up and talked with most all the woodcutters up in Fort Kent owe them this vote.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I find myself confused by what the bill is intending to do and about where it is possibly heading. I need to begin by saying that I am unclear as to what portion of the *Wall Street Journal* article is untrue. It was well known to all of us who live in central and northern Maine that because of the unavailability of H-2B labor a number of things happened last year. They were quite significant. One of the things that happened is that the price of wood went through the roof. For those of us who own woodland it was a good thing. I had a number of loads taken off my property because the price was high and it was a good time to put it onto the market. It's also true that the price of labor, the wages paid to workers, went up by \$2 or \$3 an hour. Many of the people that I spoke to, going door-to-door, who operate heavy equipment were relatively pleased that there was no Canadian labor this year because American labor was able to command its own price. I spoke to contractors, however, who were somewhat devastated by the unavailability of Canadian labor because they had equipment that went idle. Some of them lost equipment to the bank. Others who could afford to simply parked their equipment, waiting for a better opportunity to get into the woods with labor priced at a more reasonable level. I talked to people who buy lumber and pulp for the mills. They were panicked. I think the Senator from Aroostook, Senator Martin, is correct in that they didn't actually, at any given point, run out of wood and physically close, but their reserves and their stockpiles were at historic lows. I know that there were a number of mills that were on the verge of shutting down production or stalling or reducing production in reaction to the loss of wood supplies, which was a direct product of the loss of Canadian labor in the north part of my county and in the north part of Maine generally.

I don't know exactly what the bill is intended to do. It simply says that a contractor employing a bonded worker has to provide proof that the employer owns logging equipment. I am not quite sure what that has to do with setting the rate or requiring a rate is set or resolving the issue of how we interface with Canadian

labor. I don't understand the bill, nor do I understand it as it might possibly be amended. For that reason, I'm inclined at the moment to vote against it because I have at least some sympathy for those who were caught in the shortage of this past year when Canadian labor was unexpectedly made unavailable. As I said, there were some good parts for some of my constituents and some of my constituents made big money off that shortage. Others of my constituents felt very threatened by it. I can tell you that the people who work at the paper mill and the people that work at Moose River Lumber up in Jackman were quite concerned because of the unavailability of wood and threat of a shut down. At the moment I'm inclined to vote against it because it's at all clear to me, from reading the bill and its amendments, as to what it could possibly do and the impact it would have. Thank you.

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

Senator **MARTIN:** Thank you, Madame President. I will attempt to respond to the good Senator from Somerset, Senator Mills. Let me just begin by indicating that when someone applies for a H-2B visa, that person applies for the job. It does not apply to the equipment. It is the assumption that the equipment will be provided by the employer. However, when that H-2B person comes to Maine and there is, by accident or otherwise, no equipment, that person is allowed to go back to Canada and bring their equipment across the border. That is the rub. That's how they are getting around the federal law. That is what we are trying to stop.

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

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. Maybe I'll explain to the good Senator from Somerset, Senator Mills, what this L.D. 730, as amended, does. It would preclude any H-2B workers from entering the state unless employers own the logging equipment to be used by that worker. This includes all equipment. Workers can't even bring their own chainsaws. Additionally, the amendment requires state quotas be imposed on employers who are already complying with federal H-2B visa regulations. The Chief Executive's council on sustainability of the forest products industry recommended, 'Because a continued shortage of loggers could have a crippling effect on the forest industry, the industry and state should continue efforts to relax the federal cap on H-2B workers during this transition period.' Western Maine's landowners report a 30% to 40% decrease in wood volume production during the summer of 2004. Several sawmills saw inventories drop on a day-by-day basis with some mills taking unscheduled down time.

I just think it's too big a risk to go in this direction. I would ask this body to please support the minority report and vote against the pending motion. Thank you.

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

Senator **MARTIN:** Thank you very much, Madame President. I do just want to clarify, for the record, from the report that came from the council on sustainability of the forest products industry. What was just read to you was a draft and not the final report. The final report reads, and I will simply read it to you because I think it is critical, 'Given the changes in the federal H-2B worker program which has long supplied Maine with Canadian loggers, the state and industry should develop a long term plan to meet the logging infrastructure needs of Maine industry with domestic labor. The workforce cabinet and the Maine Department of Labor should work with all stakeholders to help build the logging infrastructure necessary to serve Maine's industry while recognizing the time that is necessary to make this transition statewide. This partnership also needs to encourage the federal Department of Labor to revise its prevailing wage standards for H-2B visa workers, including the use of their own equipment.'

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling 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 (#219)

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

NAYS: Senators: ANDREWS, COURTNEY, DAVIS, DOW, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, SULLIVAN, WESTON, WOODCOCK

ABSENT: Senator: TURNER

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

Bill "An Act To Remove the Sunset on Part-time Unemployment Insurance Benefits"

H.P. 233 L.D. 309

Tabled - May 26, 2005, by Senator **GAGNON** of Kennebec

Pending - motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-269) to Committee Amendment "A" (H-33)

(In House, May 19, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-33) AND HOUSE AMENDMENT "C" (H-402).**)

(In Senate, May 26, 2005, Committee Amendment "A" (H-33) **READ**. On motion by Senator **SNOWE-MELLO** of Androscoggin, Senate Amendment "A" (S-269) to Committee Amendment "A" (H-33) **READ**. Motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-269) to Committee Amendment "A" (H-33) **FAILED**. On motion by Senator **GAGNON** of Kennebec, **RECONSIDERED**.)

On motion by Senator **STRIMLING** 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 Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I ask you to support Senate Amendment "A" (S-269) which puts a 2-year expansion on the sunset on the part-time employment insurance benefit. The reason why I ask you to do this is that we're looking into possible losses of 13,500 jobs. We have to be extremely careful where we go here. If, in fact, these jobs are lost, we're going to need to save that money that is in the unemployment fund to pay for the full-time workers who are going to need that unemployment fund. I ask you to be careful where we are going down this road. I ask you to please support my amendment and vote against the indefinite postponement of my amendment. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I ask my colleagues to please vote for the indefinite postponement motion that is in front of you. If that motion does fail, I will be offering an amendment that I have to put a 3-year sunset on the bill. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Indefinitely Postpone Senate Amendment "A" (S-269). 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 (#220)

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

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

ABSENT: Senator: TURNER

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-269) to Committee Amendment "A" (H-33), **PREVAILED**.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "B" (S-318) to Committee Amendment "A" (H-33) **READ**.

On motion by Senator **DAVIS** of Piscataquis, 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 (#221)

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

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

ABSENT: Senator: TURNER

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ADOPT** Senate Amendment "B" (S-318) to Committee Amendment "A" (H-33), **PREVAILED**.

Committee Amendment "A" (H-33) as Amended by Senate Amendment "B" (S-318) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

House Amendment "C" (H-402) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-33) AS AMENDED BY SENATE AMENDMENT "B" (S-318)** thereto, **AND HOUSE AMENDMENT "C" (H-402)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/1/05) Assigned matter:

SENATE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Maine Wind Energy Act" S.P. 477 L.D. 1379

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-284)** (6 members)

Tabled - June 1, 2005, by Senator **BARTLETT** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283)** Report

(In Senate, June 1, 2005, Reports **READ**.)

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#222)

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

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

ABSENT: Senator: **TURNER**

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BARTLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283)** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-284)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "B" (S-284) **READ**.

On motion by Senator **STRIMLING** of Cumberland, Senate Amendment "A" (S-322) to Committee Amendment "B" (S-284) **READ**.

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

Senator **STRIMLING:** Thank you, Madame President. What this amendment does is it does not supersede any of the bill that we put in place. There is one part of it that is a technical amendment. In the original bill it was supposed to say that we were going to try to combine the technology of cell phone towers with the wind towers. Over in Europe, where they do windmills, they found ways to put the cell phone tower right in the windmill so it saved on the amount of things we have to put up in the sky. The other piece of it that it takes a couple of the pieces from the majority report, one of which is the study, in order to try to figure out how we can overcome some of the additional barriers that exist out there in terms of wind. It basically takes what was good about the majority report and adds it. It does not supersede anything. The core of the report remains the same. The lead sponsors of this bill in the other body were supportive of this as well. Thank you.

On motion by Senator **BRENNAN** 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 Brennan.

Senator **BRENNAN:** Thank you, Madame President, men and women of the Senate. I hope that you will vote against this amendment so that we can go back and have further discussions about this particular issue. This seems to be a harmless bill, to promote wind energy, that has come before this body. In fact, there is a lot more tied up into it. I don't know if you have looked at the amendment and part of the report. It also calls for the creation of Pine Tree Zones and the utilization of Pine Tree Zones to promote wind energy. I think when Pine Tree Zones were created nobody had the idea that this would be a particular issue to be used for. I hope that you will look closely at this particular amendment. I hope that you will look at this report before you make your decision. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I just want to speak briefly on this bill and about the committee process of getting through this bill. From my perspective, our committee was very committed to trying to find a way to promote renewable energies. We've looked at solar. We've looked at the possibility of doing something with wind and all sorts of other renewable energies. We strongly support moving in that direction. We believe we need to do something on wind energy. The problem with this bill and the amendment is that it is not targeting the problem. The key issues that impede expanding wind power here in Maine are two. One, we need to have long term contracts for providers so they know they are going to have a constant market for their product. Two, we need to make sure that there is capital available in order to support putting these windmills in place.

Neither the bill nor the amendment does any of that. What it does do is create Pine Tree Zones for windmills. We're going to innumerable little Pine Tree Zones popping up all over the place for windmills. There has been no suggestion that this is going to, in any way, help to promote wind energy. In committee we talked about it. We said, 'Is there any evidence that this is going to bring a single new windmill on line?' There was no sense that this was what the problem was. The problem is long term contracts and having the money up front. My concern with the bill and the amendment, which I don't believe improves it in any significant way, is that we are not moving towards the ultimate goal of promoting wind energy. This is an illusion. This is an opportunity to say, 'Yes, I voted for wind' with nothing to come of it. What our committee would much prefer to do is come back in January with a solid proposal that will address the two fundamental impediments that are impeding wind power. That is what our committee is reporting. That is what was in the majority report. At this point the amendment to the minority report does not do anything substantial to promote wind power. It could quite possibly do some harm by throwing Pine Tree Zones up all over the state. With that, I would urge you to oppose this amendment.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. I'm asking you to oppose this amendment. Having been on a committee that helped create the Pine Tree Zones, I'm not sure if I should openly admit that or not. Somewhere, somehow, somebody made the connection with Pine Tree Zones, and they must create a lot of wind so let's put it here. This doesn't do what we need to do and it doesn't do anything that the Pine Tree Zones were designed to do. We talked in the other chamber for the 6 years that I was there, and I have a feeling it hasn't been much different in this chamber, about passing useless legislation just to create a law so everybody can go home and say, 'Look what we did.' We do nothing here. We do nothing about public policy. Please vote against this. Let us reconsider, have more discussion, and go back to come up with a plan that honestly makes sense and moves us ahead in renewable energy sources. Thank you.

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

Senator **WESTON:** Thank you, Madame President and men and women of the Senate. I found myself on the same side as the good Senator from Cumberland, Senator Brennan, earlier today and now I find myself on the side of the other Senator, Cumberland, Senator Strimling. That's not typical. You do have a choice before you. The choice is do you just do another study or do you allow some people who are ready to move ahead with community wind projects to start and allow a study to also conveniently work within those projects? If you want to do nothing, then you can just go for the study. There are people who are ready to move ahead with community wind. This amendment would allow them to do that on a small scale. I'm willing to allow that project to happen and allow it to move forward. There are people who are ready and there is a piece of the study that can go along with this. From the bills that I've talked about previously in this week that I seemed to be on the wrong side of, we want to save energy and we want to look at a wonderful energy policy for

the future. Well, here is our chance. You have the good Senator and myself saying this is a good thing. Just consider it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. I think that the motion on the floor is to put a study provision onto the minority report. It was the minority report, itself, that I have heard debated for the last 10 minutes. Just speaking from my own perspective, I don't think I object to the pending motion. I was stirred by the points made by those who oppose the underlying report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Adopt Senate Amendment "A" (S-322) to Committee Amendment "B" (S-284). 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 (#223)

YEAS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DIAMOND, DOW, HASTINGS, MARTIN, MAYO, MILLS, MITCHELL, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, WESTON

NAYS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, GAGNON, HOBBS, PERRY, ROTUNDO, SULLIVAN, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: TURNER

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **STRIMLING** of Cumberland to **ADOPT** Senate Amendment "A" (S-322) to Committee Amendment "B" (S-284), **PREVAILED**.

Senator **BRENNAN** of Cumberland moved to **INDEFINITELY POSTPONE** Committee Amendment "B" (S-284) as Amended by Senate Amendment "A" (S-322) thereto.

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 Kennebec, Senator Cowger.

Senator **COWGER:** Thank you, Madame President and colleagues in the Senate. I happen to be an owner of a wind turbine. I don't know if you would call it a community wind turbine or not. I don't think the definition is in any of the legislation or

amendments we are considering. I hope you will support the pending motion so we can go on and reconsider once again the majority report of the committee. If you climb the hill behind the State House and look over, I'll bet you can probably see my wind turbine in the distance. I, for one, don't think Maple Hill in Hallowell needs to become a Pine Tree Zone to help support community wind. As the good Senator has said, we need access to capital. I was fortunate enough to fund a portion of this wind turbine with a low interest loan program that the State of Maine has through the Public Utilities Commission. It has very limited funds. It was only for a small portion of my project. That is exactly what the state needs to get community wind on its way. We don't need to be creating Pine Tree Zones throughout the state. That's not what I need to have this project go forward. I think another 6 months delay and an additional study on this topic will bring forth a lot more information so we can make a much more educated and informed choice in the next session. I hope you will support the pending motion. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I encourage my colleagues to defeat the motion to indefinitely postpone. There are a lot of aspects of this bill. I'm not exactly sure why we didn't debate them when we were first on the minority report. I guess we now want to talk a little bit about it. We do set up some Pine Tree Zone incentives for folks who are building small community wind projects. This is not the big stuff. This is helping small businesses to be able to do some of the community wind. We also put some important goals in place into the law, 300 megawatts over the next 5 years. That is the equivalent of getting rid of 100,000 cars off our highways and reducing the pollutants in our air. All of Europe is well ahead of us on this issue. I daresay we should not be waiting another year, which is how long it will take for us to get the report and to put legislation through, before we start doing stuff. We know what needs to be done. The PUC did a report that came out with some pieces. This takes some of that, it takes what is best from the majority report and the minority report, and puts it together so that we can get some action in place and look at some of the other impediments so we can move forward. I strongly request, as I mentioned, Madame President, that people reject the motion to indefinitely postpone.

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

Senator **WESTON:** Thank you, Madame President. I would like a Pine Tree Zone over the entire state. That is what I would like. There is a definition for community wind power generation. It means an electricity generating facility at any one sight with instantaneous generating nameplate capacity of not more than 10 megawatts and is powered entirely by wind energy.

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

Senator **BARTLETT:** Thank you, Madame President. I appreciate the good Senator from Waldo, Senator Weston, bringing up the definition of community wind. I'd like to know for how many of you that made any sense? Community wind. It is

basically a windmill. If you put up a windmill, you are a community wind site and eligible for a Pine Tree Zone. This is bizarre. This is not wind energy policy. I don't know what this is, but this is not a sound energy policy. This is not promoting renewable energy. The good Senator from Cumberland, Senator Strimling, made reference to the 300 megawatts requirement. In committee we asked over and over again, 'Where did that 300 megawatts number come from?' We need to have some target, so let's pick 300. It's as good as any. Again, does that sound like good, rational, sound policy? Should we at least figure out what a reasonable approach before we commit ourselves to heading a path to 300 megawatts, which may be way too little or way too much? Finally, if you want quick action on promoting wind energy, I can guarantee the one thing that this bill and this amendment does not do is give you quick action on wind energy. It does not solve the two problems that are facing wind energy producers. There is no money for revolving loans. There are no long term contracts. We are not authorizing anyone to enter into a long term contract. It's not getting you there. We must have a much more sound approach before we start putting into law these arbitrary provisions dealing with Pine Tree Zones, 300 megawatts, and community wind. This is a very strange concept that we are putting into law. Remember, this is going into the statute books. This is what the policy of the State of Maine for renewable energy is. We're going to be the laughing stock of the rest of the country when they see this is our renewable energy policy. It's not sound policy. It's not the way to go. I urge you to support the motion to indefinitely postpone.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. My memory of the Pine Tree Zone benefits are that they are principally two in number. One of them is that you don't have to pay the sales tax on the equipment that is located within the Pine Tree Zone. The second thing is that you get a refund of a major portion of your withholding taxes that are paid to those employed within the zone. I haven't seen too many people wandering around the base of these windmills being employed. I suspect that the only benefit that they would get would be a forgiveness of the sales tax on the purchase of the machine. I guess a more direct way to create the incentive would simply to be to declare these things exempt from sales tax. That would get you there without having to have Pine Tree Zones, or whatever they are, around them. The other awkward part of the Pine Tree Zone system is that the person making the investment has to declare, if not under oath at least in some solemn way, that the investment would not have been made were it not for the availability of the incentives within the Pine Tree Zone. In order words, some developer would have to come in and say, 'I'd like to have a windmill but I surely am not going to have a windmill unless I get out from paying the sales tax on the equipment.' Somebody can say that, and I rather suspect that there are many business people who are writing such letters over to DECD to get whatever inducements they are dangling out lately. I do have to agree with those who say that the Pine Tree Zone incentive isn't particularly meaningful in this context. I question whether it is sincerely available. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brennan

Indefinitely Postpone Committee Amendment "B" (S-284) as Amended by Senate Amendment "A" (S-322) thereto. 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 (#224)

YEAS: Senators: BARTLETT, BRENNAN, BROMLEY, BRYANT, COWGER, GAGNON, HASTINGS, HOBBS, MAYO, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, SULLIVAN, WOODCOCK, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: ANDREWS, CLUKEY, COURTNEY, DAMON, DAVIS, DIAMOND, DOW, MARTIN, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SNOWE-MELLO, STRIMLING, WESTON

ABSENT: Senator: TURNER

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRENNAN** of Cumberland to **INDEFINITELY POSTPONE** Committee Amendment "B" (S-284) as Amended by Senate Amendment "A" (S-322) thereto, **FAILED**.

On motion by Senator **BRENNAN** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "B" (S-284) as Amended by Senate Amendment "A" (S-322) thereto.

The Chair laid before the Senate the following Tabled and Later (6/1/05) Assigned matter:

An Act Relating to Disclosures in Political Advertising
H.P. 771 L.D. 1118
(C "A" H-451)

Tabled - June 1, 2005, by Senator **GAGNON** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In Senate, May 26, 2005, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-451)**, in concurrence.)

(In House, June 1, 2005, **PASSED TO BE ENACTED**.)

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

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Require Publicly Funded Entities To Report Undocumented Illegal Aliens"

H.P. 732 L.D. 1079

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-581)** (5 members)

Tabled - June 2, 2005, by Senator **WESTON** of Waldo

Pending - motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, June 1, 2005, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 1, 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, Madame President, ladies and gentlemen of the Senate. I won't take long with this, but I do want to explain this bill. This bill, as proposed, was an attempt to balance our need for vigilance in our national security against the rights of those who have immigrated into our country illegally. Since 9/11 we all have to be aware of the unfortunate need to be careful, to watch for illegal immigrants or terrorists entering our borders illegally. The bill, as originally written, went way too far. It required any member of a public or private organization receiving state funds to report to Homeland Security if they believed they had come into contact with somebody who was in this country illegally. I think we agreed in committee that this went way too far. We're not trying to create witch-hunts here. We're not trying to create that type of intrusion. The minority report, with the amendment that I hope you will support if you will oppose the pending motion, backs that off substantially. It simply says that if a member of a public or private organization that receives state funds knows that he has come into contact, the operative word is knows, and knows as a fact that he has come into contact with an undocumented illegal alien, he or she will report that to Homeland Security unless that information was privileged due to the position, perhaps as an attorney or something like that. All it says is that if you are a public official and you know that you have come into contact with an undocumented illegal alien you will let Homeland Security know. That is the long and the short of it. We have to face the fact that there will be some intrusions in individual rights if we are to protect our national security. Where you draw the line, you'll have to decide. I think the minority report, as amended, is a reasonable approach. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **BRYANT**: Thank you, Madame President. To anybody who may answer, do businesses have to follow this same regulation?

THE PRESIDENT: The Senator from Oxford, Senator Bryant poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS**: Thank you, Madame President. I'm happy to answer my fellow Senator from Oxford. According to the statute, a public or private organization that receives state funds. That is the definition. I suppose it could be a private business, because if it were receiving state funds it would have to do that. A typical business, a store or commercial enterprise, I think would be exempt from this. Thank you.

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

Senator **HOBBS**: Thank you, Madame President and members of this body. This legislative document, even as amended from the original bill, states that all recipients of state funds would become mandatory reporters to the Department of Homeland Security on anyone known to be of illegal status. Unfortunately, the intention of this bill has some merit. What the end result of this bill is; it will mean that we will be transforming public employees, as well as employees of any private organization that receives state funds, into unfunded, untrained federal immigration agents. This is a very dangerous and misguided path to go on. We all know that September 11th changed the way we live in this country and, quite frankly, the world. This particular bill, even in the amended version, has consequences that are really probably unintended but will occur. Let's take a hospital environment, for example. I know the good Senator will jump up after I get done and say that if the information was gained in a privileged manner it would not be able to be used in order to turn in the illegal alien. If we have a system of healthcare and healthcare delivery in this country where an individual, documented or undocumented, has a serious medical condition, one that could be contagious to everyone around, that person should be encouraged to seek medical care. That person should not be faced with a situation of not seeking medical care because he or she would be afraid that they would be turned in by these new federal agents known as their doctors, their nurses, or the admission staff at a hospital. This bill would have a chilling effect on the staff of those hospitals or a private agency. I know that this bill was well intended by its sponsor and my good colleague from Oxford is well intended with his attempt to compromise this bill, but we should not be tinkering in areas of sophistication such as federal immigration law. It's a very complicated area. The irony of all this is that just recently, on May 9, 2005, the CMS issued final rules on a provision in the new Medicare law that will provide \$1 billion of additional funding over 4 years to cover the cost of care for undocumented immigrants. Under the final rules, hospitals cannot ask patients directly

whether they are undocumented immigrants. This is the law and these regulations were promulgated by this administration in Washington. I urge you to support the Ought Not to Pass report.

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

Senator **HASTINGS**: Thank you, Madame President. I'm jumping up only because the good Senator from York, Senator Hobbins, told me I was supposed to. I just want to point out one thing, as you pointed it out, Senator, the hospitals is sort of 'If you don't ask, you don't have to tell.' It does not require the hospitals to seek that information. It's only if the hospital, or anybody who is unprivileged, actually has the information. It does not require anybody to ask any questions whatsoever. Thank you.

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

Senator **HOBBS**: Thank you, Madame President. To my good friend, my colleague from the Judiciary Committee, that is probably true but I don't know how that person going into a hospital is going to give a medical history of maybe where he or she contracted or contacted the disease, whether it was in Central America, Honduras, or wherever. It seems that you need the whole record and documentation when you take a history of a patient in an emergency room in order to know. If you don't ask, then you won't get the right diagnosis.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brennan 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 (#225)

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

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

ABSENT: Senators: BRENNAN, BROMLEY, STRIMLING, TURNER

16 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **BRENNAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

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 Reestablish the Milk Handling Fee
H.P. 996 L.D. 1432
(C "A" H-602)

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:

Emergency Measure

An Act Relating to the Northern New England Passenger Rail Authority
H.P. 380 L.D. 505
(S "A" S-192 to C "A" H-362)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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.

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 Prohibit Private Nonmedical Institutions from Passing Along the Service Provider Tax to Residents"

H.P. 332 L.D. 454

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

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-572)**.

Signed:

Senator:

ROSEN of Hancock

Representatives:

SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland

(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**.

Senator **MAYO** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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, in concurrence.

Senator **STRIMLING** of Cumberland was granted unanimous consent to address the Senate on the Record.

Senator **STRIMLING**: Thank you, Madame President. On Tabled and Later Assigned earlier this evening, number 22, L.D. 1079, I wish to be recorded as "yes".

Senator **BRYANT** of Oxford was granted unanimous consent to address the Senate off the Record.

Senator **WOODCOCK** of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BRENNAN** of Cumberland, **ADJOURNED**, to Friday, June 3, 2005, at 10:00 in the morning.