

MAINE STATE LEGISLATURE

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

Daily Edition

First Regular Session
December 6, 2006 to June 21, 2007

Pages 1 - 1266

STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
May 24, 2007

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

Prayer by Pastor Thomas M. Frey of Dresden-Richmond United
Methodist Church in Richmond.

PASTOR FREY: A dignitary was visiting an elementary school
and as she sat there on the dais some children came forward and
presented her with a gift of wild orchids. Delighted, she took the
gift of flowers and as she held on and looked at them she began
to notice that some ants were crawling out of the flowers and onto
her arms and under the sleeves of her blouse. She had a
dilemma. She couldn't just throw the flowers aside and brush the
ants off, all she could do was sit and smile and try to focus on the
beautiful flowers while ignoring the troublesome ants. Let us
pray.

God of hope, You give us choices in life. We can choose the
good and lovely or we can choose the ugly. We can focus on the
ants or we can enjoy the orchids. Give us the wisdom to see the
good and not let our hearts dwell on the negative in all that we do.
Help us to see Your love in all we do and help us to know that
You are present in both our joys and our sorrows. Amen.

Reading of the Journal of Wednesday, May 23, 2007.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **MITCHELL** of Kennebec, the following Joint Order:
S.P. 716

Ordered, the House concurring, that when the House and Senate
adjourn, they do so until Tuesday, May 29, 2007. The House will
convene at 9:00 and the Senate at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 331

STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON NATURAL RESOURCES

May 22, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule
505 of the 123rd Maine Legislature, the Joint Standing Committee
on Natural Resources has had under consideration the
nomination of Susan M. Lessard of Hampden, for appointment to
the Board of Environmental Protection.

After public hearing and discussion on this nomination, the
Committee proceeded to vote on the motion to recommend to the
Senate that this nomination be confirmed. The Committee Clerk
called the roll with the following result:

YEAS	Senators	2	Martin of Aroostook, Smith of Piscataquis
	Representatives	10	Koffman of Bar Harbor, Annis of Dover-Foxcroft, Ayotte of Caswell, Babbidge of Kennebunk, Duchesne of Hudson, Eberle of South Portland, Hamper of Oxford, McDonough of Scarborough, Miramant of Camden, Wagner of Lewiston

NAYS 0

ABSENT 1 Sen. Bartlett of Cumberland

Twelve members of the Committee having voted in the affirmative
and none in the negative, it was the vote of the Committee that
the nomination of Susan M. Lessard of Hampden, for
appointment to the Board of Environmental Protection be
confirmed.

Signed,

S/John L. Martin
Senate Chair

S/Theodore Koffman
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MITCHELL** of Kennebec, Nomination
TABLED until Later in Today's Session, pending
CONSIDERATION.

The Following Communication: S.C. 332

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON NATURAL RESOURCES**

May 22, 2007

The Honorable Beth Edmonds
President of the Senate of Maine
123rd Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 123rd Maine Legislature, the Joint Standing Committee on Natural Resources has had under consideration the nomination of Matthew Scott of Belgrade, for reappointment to the Board of Environmental Protection.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Martin of Aroostook, Smith of Piscataquis
	Representatives	10	Koffman of Bar Harbor, Annis of Dover-Foxcroft, Ayotte of Caswell, Babbidge of Kennebunk, Duchesne of Hudson, Eberle of South Portland, Hamper of Oxford, McDonough of Scarborough, Miramant of Camden, Wagner of Lewiston
NAYS		0	
ABSENT		1	Sen. Bartlett of Cumberland

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Matthew Scott of Belgrade, for reappointment to the Board of Environmental Protection be confirmed.

Signed,

S/John L. Martin
Senate Chair

S/Theodore Koffman
House Chair

READ and ORDERED PLACED ON FILE.

On motion by Senator **MITCHELL** of Kennebec, Nomination **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

ORDERS

Joint Resolution

On motion by Senator **SCHNEIDER** of Penobscot (Cosponsored by Representative BRYANT of Windham and Senators: BRYANT of Oxford, DAMON of Hancock, Representatives: CARTER of Bethel, CROSTHWAITE of Ellsworth, GIFFORD of Lincoln, McLEOD of Lee), the following Joint Resolution:
S.P. 715

**JOINT RESOLUTION RECOGNIZING THE GIFT OF THE
MAINE TOURMALINE NECKLACE TO THE PEOPLE OF THE
STATE OF MAINE**

WHEREAS, it is desirable that the State should encourage the promotion of materials that are the products of the State, its history and traditions; and

WHEREAS, the advancement of knowledge and understanding of the State is accomplished in part by objects of artistic, cultural and educational interest; and

WHEREAS, tourmaline, by virtue of its discovery in 1820, the year in which Maine became a state, its association with Vice President Hannibal Hamlin and other illustrious Maine people, and its prominence in the gem and mineral field since the discovery of the largest tourmaline find in the world at Newry in 1972, has richly deserved its designation as the official mineral of the State of Maine bestowed upon it by the One Hundred and Fifth Legislature; and

WHEREAS, the rendering in 1975 of Maine tourmaline and gold into the Maine Tourmaline Necklace by a Maine artisan, Addison W. Saunders of Ellsworth, created a beautiful symbol of state resources, pride and craftsmanship, and as an original work of art represents a form of expression that will promote a deeper knowledge and understanding of the history and skills of Maine people; and

WHEREAS, the Maine Tourmaline Necklace, made from gold nuggets panned from the Swift River in Byron, was presented to the State of Maine by the Maine Retail Jewelers' Association in 1977; and

WHEREAS, the One Hundred and Eighth Legislature declared its deep appreciation and enduring gratitude for this gift, which, in terms of those unseen and eternal things that make it priceless, depicts the grace, charm and pride of Maine people; and

WHEREAS, the Maine Tourmaline Necklace has been worn by the First Ladies of Maine at official state functions during the last 30 years and is now on display at the Blaine House, the official residence of the Governor of Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity on the 30th anniversary of receiving the necklace to recognize the Maine Tourmaline Necklace as a symbol of the beauty and riches that Maine has to offer.

READ.

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

Senator **SCHNEIDER:** Thank you, Madame President. It is a pleasure for me to be able to stand and recognize James Vose and Addison Saunders. James Vose was the person who came up with the idea 30 years ago to have a necklace, a crown jewel of Maine, crafted and Addison Saunders was the craftsman. They are both with us here today along with Addison Saunders' wife, Roberta. The Joint Resolution is to recognize the 30th anniversary of the State receiving the crown jewel of Maine, the Maine Tourmaline Necklace, as a gift. It was truly a gift that came and was inspired by Maine and from Maine communities. The ideas came from Maine people and the gems were found in a mine here in Maine, the Plumbago Mine, and furnished by Dean McCrillis of Newry. The necklace was crafted by Addison Saunders, who is from Ellsworth, and James Vose, who inspired the idea and concept of this gift, is from Lincoln. The Pink Tourmaline, the center stone, is a beautiful stone and the necklace has been worn on many occasions by our First Lady. We are very fortunate to have such a generous and wonderful idea conceptualized and brought forward 30 years ago. I just want to mark this anniversary. Thank you very much, Madame President.

On motion by Senator **SCHNEIDER** of Penobscot, the Joint Resolution was **ADOPTED**.

Ordered sent down forthwith for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber, James Vose of Lincoln, Addison Saunders of Ellsworth, and Roberta Saunders of Ellsworth. Would they please rise and accept the greetings of the Maine Senate.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **NATURAL RESOURCES** on Bill "An Act To Protect Children from Lead Exposure by Requiring Sufficient Notice of Renovations"

H.P. 433 L.D. 555

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-179)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-179) AS AMENDED BY HOUSE AMENDMENT "A" (H-290)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-179) **READ**.

House Amendment "A" (H-290) to Committee Amendment "A" (H-179) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-179) as Amended by House Amendment "A" (H-290) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Preserve Historic Architecture by Encouraging Owner-occupied Small Business Conversion"

H.P. 702 L.D. 927

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

Signed:

Senators:

BROMLEY of Cumberland
SCHNEIDER of Penobscot
COURTNEY of York

Representatives:

BEAULIEU of Auburn
SAMSON of Auburn
AUSTIN of Gray
MacDONALD of Boothbay
PRESCOTT of Topsham
SILSBY of Augusta
SMITH of Monmouth
CLEARY of Houlton

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

Signed:

Representatives:

RECTOR of Thomaston
BEAUDETTE of Biddeford

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-277)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-277) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Track and Record All Fishing-related Rules Changes"

H.P. 590 L.D. 772

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

Signed:

Senators:

BRYANT of Oxford
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

JACKSON of Allagash
RICHARDSON of Carmel
FINCH of Fairfield
McLEOD of Lee
WHEELER of Kittery
LUNDEEN of Mars Hill
BRYANT of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representatives:

SAVIELLO of Wilton
EBERLE of South Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Prohibit Recreational Bear Trapping"

H.P. 1144 L.D. 1635

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

Signed:

Senators:

BRYANT of Oxford
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

JACKSON of Allagash
RICHARDSON of Carmel
SAVIELLO of Wilton
FINCH of Fairfield
McLEOD of Lee
WHEELER of Kittery
LUNDEEN of Mars Hill
BRYANT of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-246)**.

Signed:

Representative:

EBERLE of South Portland

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

Reports **READ**.

On motion by Senator **BRYANT** of Oxford, 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 To Enable the Dirigo Health Program To Be Self-administered"

H.P. 347 L.D. 431

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

Signed:

Senators:

SULLIVAN of York
BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
TREAT of Farmingdale
CONOVER of Oakland
PRIEST of Brunswick

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

VAUGHAN of Durham
RICHARDSON of Warren
SAVAGE of Falmouth
McKANE of Newcastle

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-285).

Reports **READ**.

Senator **SULLIVAN** of York 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 **LEGAL AND VETERANS AFFAIRS** on Resolve, Authorizing Matthew Haskell To Sue the State

H.P. 551 L.D. 730

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

Signed:

Senators:

MARRACHÉ of Kennebec
BRYANT of Oxford

Representatives:

WEDDELL of Frankfort
PINKHAM of Lexington Township
TRINWARD of Waterville
PATRICK of Rumford
TUTTLE of Sanford

NASS of Acton

GOULD of South Berwick

BLANCHETTE of Bangor

FITTS of Pittsfield

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A"** (H-288).

Signed:

Senator:

PLOWMAN of Penobscot

Representative:

MOORE of Standish

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding the Long-term Contracting Authority of the Public Utilities Commission" (EMERGENCY)

H.P. 224 L.D. 268

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-220).

Signed:

Senators:

BARTLETT of Cumberland

HOBBINS of York

Representatives:

BLANCHARD of Old Town

RINES of Wiscasset

BLISS of South Portland

ADAMS of Portland

BERRY of Bowdoinham

HINCK of Portland

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

Signed:

Senator:

SMITH of Piscataquis

Representatives:

THIBODEAU of Winterport
CURTIS of Madison
FLETCHER of Winslow
FITTS of Pittsfield

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-220)**.

Reports **READ**.

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

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BARTLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Enhance Availability of Emergency Telephone Services"

H.P. 975 L.D. 1383

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-282)**.

Signed:

Senators:

BARTLETT of Cumberland
HOBBINS of York

Representatives:

BLANCHARD of Old Town
RINES of Wiscasset
FLETCHER of Winslow
ADAMS of Portland
FITTS of Pittsfield
BERRY of Bowdoinham
HINCK of Portland

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

Signed:

Senator:

SMITH of Piscataquis

Representatives:

THIBODEAU of Winterport
BLISS of South Portland
CURTIS of Madison

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-282)**.

Reports **READ**.

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

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BARTLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Discontinue Over-the-counter Drug Coverage for MaineCare Patients"

S.P. 386 L.D. 1198

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-134)**.

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

READ ONCE.

Committee Amendment "A" (S-134) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Control Flooding"

S.P. 407 L.D. 1219

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-135)**.

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

READ ONCE.

Committee Amendment "A" (S-135) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Raise Benefits for Farmers under the Milk Subsidy Program and To Prevent Price Gouging in the Sale of Milk"

S.P. 262 L.D. 852

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-139)**.

Signed:

Senators:

ROTUNDO of Androscoggin
SHERMAN of Aroostook

Representatives:

PIEH of Bremen
MAREAN of Hollis
GIFFORD of Lincoln
CARTER of Bethel
PIOTTI of Unity
CRAY of Palmyra
PRATT of Eddington
EDGECOMB of Caribou
LUNDEEN of Mars Hill
PINEAU of Jay

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-140)**.

Signed:

Senator:

NUTTING of Androscoggin

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-140)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-140)** Report.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act Relative to Motor Vehicles and Floats Operated in Parades"

S.P. 452 L.D. 1304

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

Signed:

Senators:

DAMON of Hancock
DIAMOND of Cumberland
SAVAGE of Knox

Representatives:

BROWNE of Vassalboro
FISHER of Brewer
MAZUREK of Rockland
HOGAN of Old Orchard Beach
THOMAS of Ripley
CEBRA of Naples
ROSEN of Bucksport
THERIAULT of Madawaska
PEOPLES of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-133)**.

Signed:

Representative:

MARLEY of Portland

Reports **READ**.

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

Sent down for concurrence.

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

SECOND READERS

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

House

Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Development Services Regional Sites (EMERGENCY)

H.P. 268 L.D. 334

Bill "An Act To Enhance the Newborn Hearing Program"
H.P. 835 L.D. 1142

Bill "An Act To Clarify Intermittent Leave under the Family Medical Leave Laws"

H.P. 889 L.D. 1261

Bill "An Act Regarding Payment of Penalties for Nonpayment of Bills for Medical or Health Care Services under the Maine Workers' Compensation Act of 1992"

H.P. 1297 L.D. 1861

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

House As Amended

Bill "An Act To Include Student Representation on the State Board of Education"

H.P. 133 L.D. 151
(C "A" H-271)

Bill "An Act To Create a Nonresident Lobster and Crab Landing Permit"

H.P. 255 L.D. 311
(C "A" H-257)

Bill "An Act To Amend Maine's Electric Utility Restructuring Laws"

H.P. 329 L.D. 413
(C "A" H-280)

Bill "An Act To Support the Commercial Groundfish Industry" (EMERGENCY)

H.P. 646 L.D. 847
(C "A" H-278)

Bill "An Act To Authorize Nonprofit Organizations To Conduct Tournament Games"

H.P. 677 L.D. 892
(C "A" H-267)

Bill "An Act To Exempt Qualifying Snowmobile Trail Grooming Equipment from State Sales Tax"

H.P. 712 L.D. 937
(C "A" H-283)

Bill "An Act To Clarify Public Safety Laws Regarding the Disclosure of Information and the Storage of Evidence, To Reauthorize the United States Secret Service To Enforce Certain State Laws and To Allow Designees To Serve on the Maine Communications System Policy Board"

H.P. 864 L.D. 1183
(C "A" H-264)

Bill "An Act To Provide Oversight for Crematoriums"

H.P. 907 L.D. 1289
(C "A" H-276)

Bill "An Act To Establish Alternative Fuel Incentive Grants To Stimulate the Production, Distribution and Use of Biofuels"

H.P. 956 L.D. 1347
(C "A" H-268)

Bill "An Act To Authorize the Board of Trustees of the Maine State Retirement System To Provide a Cost-of-living Adjustment to Retired Employees of Participating Local Districts" (EMERGENCY)

H.P. 965 L.D. 1373
(C "A" H-273)

Resolve, To Ensure the Success of Regional Climate Change Efforts

H.P. 973 L.D. 1381
(C "A" H-274)

Resolve, Directing the Public Utilities Commission To Amend its Rules To Increase the Amount of Energy Conservation Funds for School Administrative Units

H.P. 1175 L.D. 1666
(C "A" H-281)

Bill "An Act To Facilitate and Promote Regional Cooperation"

H.P. 1218 L.D. 1735
(C "A" H-265)

Resolve, To Convene a Working Group To Review Statutory Language and Propose Standards To Ensure the Use of Respectful Language

H.P. 1238 L.D. 1780
(C "A" H-275)

Bill "An Act Concerning Maine's Highway Safety Laws"

H.P. 1284 L.D. 1844
(C "A" H-270)

Bill "An Act To Provide Flexibility within the Monhegan Island Lobster Conservation Area To Ensure the Viability of the Island Community" (EMERGENCY)

H.P. 1302 L.D. 1870
(C "A" H-279)

Resolve, Directing the Department of Health and Human Services To Adopt Rules Governing the Safety of Children at Day Care Facilities with Swimming Pools

H.P. 1314 L.D. 1880
(C "A" H-284)

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

Senate

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

S.P. 642 L.D. 1806

Bill "An Act To Amend the Long-term Care Insurance Law"

S.P. 678 L.D. 1865

READ A SECOND TIME and **PASSED TO BE ENGROSSED**. Sent down for concurrence.

Senate As Amended

Bill "An Act To Create Uniformity among Certain Self-insureds"

S.P. 396 L.D. 1208
(C "A" S-130)

Bill "An Act To Enhance Fairness in Arbitration"
S.P. 516 L.D. 1489
(C "A" S-131)

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

Sent down for concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 334

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

May 22, 2007

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

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

- | | |
|-----------|---|
| L.D. 1323 | Resolve, To Require the Department of Public Safety To Determine the Requirements for Regional Firefighters Concerning Assisting Other Municipalities |
| L.D. 1706 | Resolve, Establishing a Commission To Review State House and Capitol Complex Security Issues |

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

Sincerely,

S/Sen. Bill Diamond
Senate Chair

S/Rep. Stanley J. Gerzofsky
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.C. 335

**STATE OF MAINE
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON LABOR**

May 17, 2007

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

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

- | | |
|-----------|--|
| L.D. 5 | An Act To Provide Equal Treatment for All Veterans in the Laws Governing the Maine State Retirement System |
| L.D. 155 | An Act To Eliminate the Offset for Social Security and Certain Other Pensions for Unemployment Benefits |
| L.D. 457 | An Act To Require Nonprofit Employers To Disclose All Benefits Available, Including Unemployment Insurance, to Employees and Prospective Employees |
| L.D. 1310 | An Act To Make Unemployment Compensation Law More Fair to Seniors |
| L.D. 1407 | Resolve, To Address Issues Concerning the Employment of Senior Citizens |
| L.D. 1438 | An Act To Reverse the Effects of the Grant Case on Workers' Compensation BY REQUEST |

L.D. 1493 An Act To Authorize the Employer To Adjust
Workers' Compensation Benefits When the
Employee Returns To Work for Another
Employer

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

Sincerely,

S/Sen. Ethan Strimling
Senate Chair

S/Rep. John L. Tuttle, Jr.
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:

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator SCHNEIDER for the Committee on **STATE AND LOCAL
GOVERNMENT** on Bill "An Act To Require That Notaries Public
Keep Records of Notarial Acts"

S.P. 538 L.D. 1515

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

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

READ ONCE.

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

Senator SCHNEIDER for the Committee on **STATE AND LOCAL
GOVERNMENT** on Bill "An Act To Amend the Laws Relating to
Notaries Public"

S.P. 653 L.D. 1835

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

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

READ ONCE.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator SULLIVAN for the Committee on **INSURANCE AND
FINANCIAL SERVICES** on Bill "An Act To Conform State Law
with Federal Law Regarding Bankruptcy Exemptions"
S.P. 246 L.D. 797

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (S-141).**

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

READ ONCE.

Committee Amendment "A" (S-141) **READ** and **ADOPTED.**

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BOWMAN for the Committee on **EDUCATION AND
CULTURAL AFFAIRS** on Bill "An Act To Increase the Availability
of Public Education Services from Child Development Services"
S.P. 99 L.D. 317

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (S-142).**

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

READ ONCE.

Committee Amendment "A" (S-142) **READ** and **ADOPTED.**

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Amend Certain Laws Administered by the Department of Environmental Protection"

S.P. 629 L.D. 1778

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-144)**.

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

READ ONCE.

Committee Amendment "A" (S-144) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve Continuity of Care within Maine's Community-based Mental Health Services"

S.P. 612 L.D. 1745

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-143)**.

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

READ ONCE.

Committee Amendment "A" (S-143) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Senate at Ease.

Senate called to order by the President.

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

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 11:30 in the morning.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

NOMINATION - of Susan M. Lessard of Hampden, for appointment to the Board of Environmental Protection

Tabled - May 24, 2007, by Senator **MITCHELL** of Kennebec

Pending - **CONSIDERATION**

(In Senate, May 24, 2007, Communication (S.C. 331) from the Committee on **NATURAL RESOURCES**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#74)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Susan M. Lessard** of Hampden, for appointment to the Board of Environmental Protection was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber, Susan M. Lessard of Hampden. Would she please rise and accept the greetings of the Maine Senate.

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

NOMINATION - of Matthew Scott of Belgrade, for reappointment to the Board of Environmental Protection

Tabled - May 24, 2007, by Senator **MITCHELL** of Kennebec

Pending - **CONSIDERATION**

(In Senate, May 24, 2007, Communication (S.C. 332) from the Committee on **NATURAL RESOURCES, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **NATURAL RESOURCES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#75)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Matthew Scott** of Belgrade, for reappointment to the Board of Environmental Protection was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Chair laid before the Senate the following Tabled and Later (5/23/07) Assigned matter:

NOMINATION - of Sidney T. Bradley of Easton for appointment to the Maine State Harness Racing Commission

Tabled - May 23, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, May 23, 2007, Communication (S.C. 315) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#76)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Sidney T. Bradley** of Easton for appointment to the Maine State Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Chair laid before the Senate the following Tabled and Later (5/23/07) Assigned matter:

NOMINATION - of Mary-Anne Martell of Portland for appointment to the Maine State Harness Racing Commission

Tabled - May 23, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, May 23, 2007, Communication (S.C. 316) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#77)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Mary-Anne Martell** of Portland for appointment to the Maine State Harness Racing Commission was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Chair laid before the Senate the following Tabled and Later (5/23/07) Assigned matter:

NOMINATION - of George W. McHale of Orrington for reappointment to the Maine State Harness Racing Commission

Tabled - May 23, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, May 23, 2007, Communication (S.C. 317) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ and ORDERED PLACED ON FILE.**)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#78)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **George W. McHale** of Orrington for reappointment to the Maine State Harness Racing Commission was **CONFIRMED**. The Secretary has so informed the Speaker of the House of Representatives.

The Chair laid before the Senate the following Tabled and Later (5/23/07) Assigned matter:

NOMINATION - of Michael P. Friedman of Bangor for reappointment to the Commission on Governmental Ethics and Election Practices

Tabled - May 23, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, May 23, 2007, Communication (S.C. 318) from the Committee on **LEGAL AND VETERANS AFFAIRS**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#79)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Michael P. Friedman** of Bangor for reappointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Chair laid before the Senate the following Tabled and Later (5/23/07) Assigned matter:

NOMINATION - of David C. Shiah of Bowdoinham for appointment to the Commission on Governmental Ethics and Election Practices

Tabled - May 23, 2007, by Senator **MARTIN** of Aroostook

Pending - **CONSIDERATION**

(In Senate, May 23, 2007, Communication (S.C. 319) from the Committee on **LEGAL AND VETERANS AFFAIRS**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 123rd Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#80)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

ABSENT: Senator: HASTINGS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **David C. Shiah** of Bowdoinham for appointment to the Commission on Governmental Ethics and Election Practices was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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 Bill "An Act To Enable the Dirigo Health Program To Be Self-administered"

H.P. 347 L.D. 431

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-285)** (8 members)

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

Tabled - May 24, 2007, by Senator **SULLIVAN** of York

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

(In House, May 23, 2007, 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-285)**.)

(In Senate, May 24, 2007, 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 stand here in opposition to the Majority Report. This bill really does worry me. I have huge concerns regarding this, An Act to Enable the Dirigo Health Program to be Self-Administered. Let me tell you what some of my concerns are.

First of all, this bill does not provide for any oversight of rating practices or financial solvency. If premiums and reserves are not

sufficient to pay claims the State's General Fund could end up having to pay those claims, imposing this liability on Maine taxpayers. I question if that is a good thing to do. The proposal breaks the public-private partnership that was the cornerstone of original Dirigo Health legislation. It will pull people out of the commercial market, leaving a smaller pool. I don't think we want that. The State should not be in the business of administering health insurance. There is no better example than MECM, the State's Medicaid payment system. We all know we are having problems with that.

The myth is that Dirigo Choice enrollees will be left without health insurance coverage if LD 431 does not pass. The reality is that Dirigo enrollees will continue to have the same insurance available to them even after the contract with Anthem ends. Anthem is required by Dirigo legislation to offer an identical product. Although Anthem will no longer have a contract with the State, it will continue to offer the product and the State will continue to provide income eligible individuals with subsidies.

At the same time the Governor and some legislators are seeking to increase regulation of health insurance for small businesses, LD 431 would exempt the Dirigo Health program and Dirigo Choice from that regulation. Why shouldn't Dirigo be subject to the same rules? This sets up an uneven playing field and I don't believe that is right. Is it not an apple-to-apple comparison to try to compare self-insurance Dirigo Choice to the self-funded plan of a single employer such as the State Employee Health Plan? That is one group with a fairly stable membership and predictable claims. Dirigo Choice is made up of many small employers and individuals with a much higher turn-over rate. What is really being proposed is much closer to an association health plan, not the self-funded plan offered by a single employer. There is no oversight by the Bureau of Insurance with respect to the premiums charged and financial oversight. If Dirigo cannot pay its claims Maine taxpayers could end up paying those bills through the State's General Fund. That, ladies and gentlemen, should be a huge concern for you.

There are key provisions from which Dirigo would be exempt. Remember I told you it sets up an unfair playing field. This program would have Dirigo be exempt from provisions. Let me tell you what they are. They would be exempt from the Unfair Practices and Fraud Provisions, which include non-discrimination against victims of domestic violence or use of genetic information. They would also be exempt from the Unfair Trades Practices and the requirements that the insurance calculation of benefits be based on actual costs. The Dirigo Health Agency would be exempt from complying with the Insurance Information and Privacy Act but other insurance companies would have to be subject to this. The Dirigo Health Agency would be exempt from transparency requirements. The Dirigo Health Agency would be exempt from complying with a majority of the provisions required in the Health Plan Improvement Act. These include providing notice of changes to provider agreements and policies, limits on retrospective denials, hearings to adequate access to provider standards, providing 60-day notice of rate increases, compliance with Fair Marketing Standards and Utilization Review Standards including the penalty provisions included in Rule 850.

I ask you if you really want to go here? This bill is very vague in its requirement that Dirigo meet or exceed the benefit rights and protections for individuals enrolled in health plans. I could go on and on, but I hope that you got the message that you should be extremely concerned. I hope that you will vote with me and not support this piece of legislation. There is also a \$1.8 million to

\$2 million per year fiscal note. Let's be very careful where we go. Thank you very much.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. A couple of things. If you look at your calendar, 5-5 is actually self-administered. I would ask you also to look at page 22 of your calendar where we had voted today under the hammer 6-24. It says certain self-insureds. There is a huge difference between self-administered and self-insured. Self-insured is actually a group. There are two in the state of Maine, the automobile dealers and the bankers. They set up their own. They assess themselves a large pool. They have collateral in case things went belly-up and they have two very successful insurance companies. Those are self-insured. You just voted for those today. The one I'm representing today is self-administered. I'm somewhat concerned that you might be looking at the bill and not at the amendment. Let me read just the summary because the bill has Section 8, 9, 10, 12, 24, and all those things that you need to be a lawyer for. Here is the amendment summary, 'This amendment is the Majority Report to the Committee. The Amendment clarifies that the Dirigo Health self-administered plan must comply with the requirements of the Maine Insurance Code relating to the privacy of insurance information, unfair discrimination against victims of domestic abuse, and unfair discrimination on the basis of genetic information or genetic testing in addition to the other requirements included in the bill.'

This is an option. The way Dirigo was set up if there is only one bidder to Dirigo you have to take that bid. We do not run businesses that way. One bid, you have to take it. You are held as a hostage. This simply says that if the bid isn't acceptable we can administer it ourselves. It still would use Anthem or any other company that wanted to be part of this, but we don't pay the administration costs. We cut out a lot of the middleman. It's good business. There is a huge difference between self-insured and self-administered.

I'm asking you to go with the Majority Report and give the chance, the option, for Dirigo. I am well aware that many people do want Dirigo to exist and this is one way to take away that option. For those people that are insured by Dirigo, that need that safety line, make sure that it doesn't happen because they have no other option. If we do not pass this there is no other option. You have to be the hostage of the one provider, regardless of their price. I would ask you to please go with the Majority Ought to Pass Report. Thank you.

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

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I'm certainly happy that one of those provisions was exempted, but the others weren't. That's the reality. I think another important part but before I go there let me say that Maine's government is not a business. They are treating us like a business and we're not a business. As a government sponsored plan, and I was talking about the self-administered not the self-insured, a self-insured Dirigo plan would be exempt from both RISA and State oversight. Thus, there would be no regulatory authority, State or Federal, to oversee Dirigos compliance with the law. In other words, this bill would

allow Dirigo to self-insure Dirigo Choice for individuals and small businesses without any regulatory oversight. This is all part of how it would be administered. That's a big concern to me and it should be a concern to you. This bill, I think, also seeks to penalize one of the few insurance companies that we have in this state. That's very unfortunate.

I think the purpose of this legislature should be, in order to provide affordable premiums and assessable health insurance to the people of this state, is to treat it in another way. We should try to bring in other health insurance companies and bring some competition to this state. We need that. Maine desperately needs that, whether we keep Dirigo or not. We need to bring in competition. It's healthy and it's good. Our Insurance and Financial Affairs Committee is working very hard, together, to find a solution. I ask you, the members of this Body, to please not support 'An Act to Enable the Dirigo Health Program to be Self-administered'. Thank you.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. I rise because I've heard people say over and over that there is no oversight. Having served on the committee last session, we debated this bill as well. There was oversight discussed then and oversight is implemented in the bill itself now. I wanted to address that. Self-insured companies don't have the same kind of oversight that this plan has been willing to put into their program. What I thought I'd add is in the bill itself, if you go to page 9 you will see a long list. They even agreed to have an independent actuary look at their rates and review them prior to even putting them out to the people. They don't necessarily have to do that, but they are willing to do that. If you look at number 9 on page 9 you will see multiple ones, A - E, that are actually things that they are willing to do to try to provide oversight for this entire program. I won't read them all, but I will read a few. People keep making the distinction that they are not going to be the same. Well they are. They are actually agreeing to a guaranteed issue and renewal. They are also requiring a continuity of coverage, coverage of late enrollees and pre-existing condition exclusions. They also are putting in requirements for mandated coverage of specific healthcare services and specific diseases and for certain providers of healthcare services. These are all things they don't necessarily have to do, but they are willingly putting them into the package. If you talk about oversight, it is there. You need to read it. 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. Briefly, as I looked at this bill I took a look at the fiscal note. What kind of stood out to me was the reduction on what they call the Insurance Premium Tax which is the tax we passed last session on every insurer in the state and the people that buy that insurance. I'm kind of glad to see that this proposal sees the benefit of reducing the tax on insurance premiums to providing health insurance for people. I think that is a step in the right direction.

I do have some other concerns with this bill. In addition, it says here the State would bear an additional financial liability if the reserve and stop loss insurance provisions required in the bill

prove to be inadequate. I was hoping maybe someone would really explain that to me because I'm wondering what type of potential liability we may be getting ourselves into. Thank you, Madame President.

THE PRESIDENT: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I had the pleasure of reading this bill for the first time in the last 15 minutes. I am bothered by many of its terms. Every insurance company requires capital. This bill provides for that capital to be derived from legislative appropriations, the Dirigo Health Enterprise Fund, and other sources. All of the sources are public, so we are creating a public insurance company and anybody who says it's less than that I don't think is fairly representing the text of the bill. The risk bearing entity will be the public. This will, in essence, be a high risk pool funded by the General Fund or by such other tax sources as the Board or someone may come up with. You can't provide health insurance, Cadillac coverage, which is what this provides for, to Maine people who need help in buying it without subsidizing it in the heaviest possible way with public revenues through taxation. Why we don't get at this in a much simpler way is beyond me. Why don't we just appropriate \$15 million, \$20 million, or \$30 million a year and give it to the Dirigo Board and say, 'Go out and subsidize coverage.' Don't start an insurance company. We've got half-a-dozen insurance companies in various levels of market penetration already doing business here. Go out and find families that need help. Give them a voucher the way they do for fuel assistance, for rents, for daycare. Create a health insurance voucher system. Start at the top by telling us what you need for money and have us appropriate the money and make a conscience decision about how much money we're going to allocate to this worthy cause because this way, doing it backwards, the cost is practically infinite. You have 141,000 uninsured people in Maine. If half or 2/3 or them can't afford to buy their own coverage, if the cost per person is \$5,000 or \$6,000 per year, you do the math. It's going to take half a billion dollars to insure all these folks who need assistance. We don't have half a billion dollars right now for this. You could do it, I suppose, if you put 2¢ or 3¢ on the sales tax. Maybe we ought to have that debate up front, instead of trying to slide in through the back door by creating some bureaucratic nightmare that tries to set up and bootstrap itself into the insurance business without, I might add, knowing the first thing about running an insurance company, and then send the bill to the Appropriations Committee in some form or another. I don't get it. I just think we're facing an almost impossible problem and throwing verbiage at it and bureaucratic creations that aren't going to solve the problem. I think it's the number one domestic problem in America today, access to healthcare. It certainly is the number one domestic problem in Maine. It's a very costly problem. If we wish to make a conscience decision, I for one would do that. To set aside a certain amount of money from public revenues to go out and try to address the problem of assisting deserving families in purchasing products of various types, I would be for that. To go out and create the product and not have any system in place to tell us what it is going to cost and how to pay for it, I think, is going at it backwards and irresponsibly. I'm going to vote against the bill for

those reasons and I appreciate the fact that this is a significant and serious problem. It's the number one problem in America today, but this isn't the way to solve it, in my view.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I would like to pose a question through the Chair to anyone who may care to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you, Madame President. Will the General Fund be exposed in any manner at any time if this passes and they, they being Dirigo, chooses to opt in to this self-insured self-administration?

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I will respond to the question and in addition I want to pursue further discussion after I respond to the good Senator from Cumberland, Senator Diamond. First of all, the General Fund will not be impacted and is not being threatened. I'm always amazed by individuals who talk about free enterprise and are scared of competition and the possibility of creating an insurance company that just might be in competition with what we have on the market today. It just amazes me, absolutely, for those people who firmly believe in the free enterprise system not to believe in free enterprise. That's what it appears we have today in this Body. It seems to me the time has come to deal with reality. We are the last industrial nation in the world not to have universal healthcare. The irony even goes further. When Mrs. Clinton happened to be appointed by her President to be the Chair of a group to try to create healthcare coverage in America I was one of those individuals from Maine that spent time working for the group in Washington. I would go down a couple of times a month. The most amazing part to me was that if I waited the day before I had to go I had to find rooms beyond Alexandria, Virginia, to find a place to stay because every hotel room in the greater Washington D.C. area was occupied by insurance individuals from all over the United States. They certainly weren't working for the average citizen of America. They were working for corporate America and their pocketbook.

What you have before you today is certainly not the way I would go, but what it is for you is a self-administered opportunity as a start. I speak because I was the one who sponsored legislation to create Maine Employer Mutual, which brought back Workers' Comp coverage to this state at rates that we could afford. If we had not done that we'd be in a horrible position today. Is it possible? The answer is yes. Some people will say that there is a difference between Workers' Comp and health insurance. Of course there is, but it is still coverage. I'd bring your attention to page 9 of the bill, section C at the top of the page, which clearly tells you what will happen. The Superintendent reviews the actuarial presentations and provides the authority and the capacity of the Bureau of Insurance to control the market or the rates. This is a beginning, not an end. If

you want to begin you have to start somewhere. This is what this bill does.

Is it surprising who is lobbying this today? By the way, I'm an agent for Anthem, through disclosure, but I am for this bill because it's a start and we have to provide competition. I am a licensed agent with Anthem/Blue Cross. Clearly, if I were really in the pockets of the insurance company you know where I would be, but I'm voting for the people of Maine.

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

Senator **SMITH:** Thank you, Madame President and members of the Senate. I have taken a look at this for the first time and I have not been lobbied by anybody on this, but there is a concern that I have. It grows out of my experience over the years of being counsel to some of the early Workers' Compensation group self-insurers. In my earlier legislative experience we were in the middle of a huge Workers' Compensation crisis. Prior to the time that the Senator from Aroostook, Senator Martin, introduced the legislation that he described to you, I introduced legislation that would have allowed group self-insurance in the Workers' Compensation setting to occur. It was quite an undertaking. It involved several weeks of work around the legislature here and working with the Bureau of Insurance. We finally were able to put a bill together and almost immediately a self-insure group in Jackman formed around the logging industry. As soon as I was out of the legislature I became their counsel and we had to do an awful lot of shaping up and refining and tinkering with that thing to make it go. One of the things that was very important at that time was to make sure that there was sufficient reserves within that organization so that it would come together, that is the money within the organization to pay the claims would come together with the excess insurance which was required by the Bureau of Insurance prior to allowing this to go forward. There was a huge effort to collect reserves from the members of that group and to get it in to the organization so that we could then qualify for a certificate from the Bureau of Insurance and move forward with it.

My concern, with just looking quickly at this bill this morning, is that what is being required here, if I'm reading it correctly, is that only 2 1/2 months of reserves are being required of this organization, which is very low. If that is the case, I would really doubt whether the kinds of excess insurance that is ordinarily required in the private sector to allow such organizations to self-insure could be procured here. If it cannot be procured to cover any gap between the 2 1/2 months of reserves and wherever we're able to get excess insurance on top, there is going to be a huge gap in between. My question is what is going to fund that gap between where the 2 1/2 months of reserves and the excess insurance, which I presume will be required here, will kick in? I would pose that question to anyone who may be able to answer.

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

Senator **BARTLETT:** Thank you, Madame President. I rise in support of this bill because I think it corrects an important flaw in the original Dirigo legislation. I think having a system where you have the administration done by an insurance company with whom you may be directly competing, and have every incentive of destroying your program, does not make good sense. One of the concerns I have with the way it currently works is that if there is

only one bidder to administer the Dirigo Health insurance component, regardless of what that bid is, we've got to take it. That means it could be enormously expensive. It could cost the State a lot of extra money and there is nothing we can do about it. What this bill does is but another option on the table. It says, 'Look, if we can't find a private company to administer this at a reasonable rate that is better than what we could do ourselves, then we'll do it ourselves.' To me, that is a reasonable approach and ought to have been on the table from the beginning. To simply say we are going to spend money, no matter how much more expensive it is than it would be to do it ourselves, is foolish.

In response to some of the questions in terms of the liability and the risk issues, another reason I support this legislation is that it carefully builds in components that will help to manage the risk to the State of Maine. One, Dirigo can only self-administer if an actuary determines that there are adequate revenues and rates. An actuary has to first look at it and make the assessment that this can be done at a reasonable risk. Second, Dirigo must buy stop-loss insurance to protect against losses beyond its reserves. There is an additional policy that it will be holding to help protect Dirigo, the Dirigo budget, and Maine taxpayers in the event that it becomes much more expensive. Thirdly, in the highly unlikely event that the reserves and the stop-loss insurance are not sufficient to protect the General Fund, the program will close enrollment. In other words, the program will track the way the reserves, the rates, and the costs and immediately close enrollment before any of the risk concerns that have been raised here happens. This legislation incorporates components of risk management that will ensure that the program is protected, that the General Fund is protected, and that we are not taking on additional risks. All this bill does is gives us one more tool to make sure that we are getting an affordable and reasonable price for the services that are provided and if it can't be done more efficiently by the private market than we could do ourselves then we ought to be doing it ourselves. I just think that is good government and we ought to be supporting this bill to make sure we are not spending a penny more than absolutely necessary to fund this program.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I would like to respond to the good Senator from Cumberland's question because as I read the fiscal note I get a different answer than the one that we just had. I'll just read the note a little bit here, with regards to converting the self-administered plan, I'll go down to the second bullet, 'The General Fund losing insurance premium tax revenue of approximately \$1.8 million to \$2 million per year annualized based on Dirigo's 2008-2009 proposed budget assumption if the conversion takes place. This loss may be offset partially by a minor increase of less than \$50,000 in corporate income tax revenue paid by a third party administrator Dirigo may use to administer the plan.' While the other good Senator from Cumberland's words were a little more comforting, about capping enrollment if we start to go down a dangerous path, which we ultimately probably will, and we would have to come up with more money for it, I guess the biggest thing that concerns me is the State bearing the additional financial liability. It goes back to the question that I asked earlier but that we were unable to get an answer to. These are my

concerns. I would just submit to the good Senator from Cumberland that there are two answers, I would suspect.

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. Thank you to the good Senator from York, Senator Courtney, because he brought up exactly what I was going to add in my comments. I must also remind you that in a world of free enterprise we try to set up a level playing field that all companies must be subject and must abide by the same rules and regulations. This changes that. This gives Dirigo the advantage. They are saying, 'Sure, let us do this, but we don't need to be subject to what every other business or every other insurance company needs to be subject to.' That's wrong. That's absolutely wrong. Thank you very much.

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

Senator **MILLS:** Thank you, Madame President. Just a few points, quickly. The fiscal note very adequately answers the question about the degree of public risk here. What it says, very openly, is that there is a jeopardy to the General Fund but more significantly the underlying program is almost entirely supported by public funds of one kind or another, whether it be a tax on claims, as we've been experiencing through the SOP, or whether it's some other form of support, perhaps one of the forms suggested by the Blue Ribbon Commission which spent all last Summer trying to figure out where the most appropriate source would be for public funding for these folks. There are two things that characterize the typical Dirigo insurer. Number one, they are poor. They can't afford insurance. Most of them are at the level just above 100% of poverty. They need huge influxes of money every month to pay the premium. That's got to come from some place. Secondly, many of them are sick. There is an adverse selection.

You have to ask yourself what insurance company out there, whether it be in London, Zurich, or Philadelphia, is going to step up and say, 'We'll pick up all the risk above a \$75,000 attachment point.' They are going to double or triple any premium that they might otherwise charge to a commercial insurance company. Why? Because of all the adverse selection issues associated with Dirigo and the fact that, and I'm going to be blunt here, it's going to be an incompetently run company by people who have no experience or knowledge of insurance. That's the definition of a public insurance company.

I need to take issue with my good friend from Aroostook County about the genesis of MEMIC. Not one public dollar was spent to create MEMIC. There was public support at the beginning, contingent public support, for it's capital, but the employers of Maine paid a surcharge of 15% of premium every month or every quarter on their Workers' Comp bills for I don't know how long until a reserve was built up so the MEMIC could be self-sustaining. In the end there were no public dollars committed to MEMIC and indeed there need not be. Why? Because Workers' Compensation is a burden that we create by law. Every employer, no matter how small, is required to pay into the pool. Sure, you could have a health insurance built like that I suppose, but we don't. This public health insurance company will be entirely at the mercy of public financing. MEMIC was never

that. The history behind MEMIC was that our predecessors, over a period of 20 years, created Workers' Compensation liabilities to employers that drove out practically the entire commercial insurance market and thus it behooved the State to step in and charter a new company. I want to stress that this new company did not cost the State any money in the end and all of the costs that fell to the insurance system ultimately were borne not by public dollars but by private dollars.

I think, in essence, what is going on because of the nature of the insurance pool within the Dirigo program, you are basically creating what I would characterize as a high risk pool. Why high risk? Because these folks have health risks and because they also have fiscal capacity risks of their own in their families. They can't afford to buy insurance elsewhere. The risk is going to be borne entirely by undesignated public sources. My thought was why don't we start like any good bunch of business people and identify the money that we want to set aside to provide insurance to these folks and then figure out how most intelligently to spend that money. No, we're going to make a decision first to go out and provide all sorts of coverage and then we'll figure out later what it might cost. I think that is backwards.

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. When the State goes into business and wants to be a business then it has to pick up some of the business liabilities and expenses that go with it. I will point out to you that if we go into this business of selling insurance we are also going to be subject to our enrollees being able to sue the plan. They are provided this right in this bill, which is a good thing; it's called consumer protection. The enrollee can actually sue for the amount of the damages as well as up to \$400,000 in compensatory damages. They normally can't sue the State. We have the Maine Tort Claims Act that says you can't ask for more than \$300,000 from the State. It limits our liability. It limits what the taxpayers have to put out for damages. This bill says that they may sue and that there are no limits under the Maine Tort Claims Act. In addition to trying to figure out if we have reserves and if we can pay for what we're offering, we have to figure out if we can we afford to withstand one of these suits. I think that the State of Maine is finally going to realize what it is actually like to be a business in the State of Maine. Unfortunately, by opening up the State to law suits you are putting the State at risk and that cannot be quantified but it must be dealt with as they move through the court and as the suits become settled or the answer comes in from the jury. I think you should know that not only have we created something new, but also that we have waived the years long, decades long, Maine Tort Claims Act which protects us from being sued. You cannot factor that in, but it is a reality of life that you must take into account or you are going to have to strip it out of the bill and there will be no consumer protection. I would urge you to keep that in mind when you are trying to determine the final cost of what going into business means. I will remind you that it is not the job of government to compete with business. If you believe in a free market, you understand that government does not belong in a free market, it belongs as far away from it and is only supposed to provide a regulatory oversight. If it's in the yellow pages, it shouldn't be done by the State government and it shouldn't be done behind closed doors and without the information that we've been

demanding to find out for years. So if you would like to take this even further and still have to explain to the people why this program cost so much then you should vote for this. Then you should add that everyone of us should be part of the program and so should the Executive Branch, because until you've lived under it I don't think that you are going to truly understand. Until you know what it is going to cost, and we still don't that, I don't think you are making a responsible decision. I would like someone to actually read into the record that it is the intention that General Fund will never be used for the purpose of this, that you will be always continuing to add a tax onto any other services that are called healthcare insurance products in the State of Maine. That's what this bill says.

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

Senator **SCHNEIDER:** Thank you, Madame President. I'm sorry, I feel compelled to my good colleagues to speak. We are the only industrialized nation not to have a national healthcare plan. The only government that is industrialized not to have a program that protects our citizen's health. Frankly, I would much prefer to see our federal government take this on at the national level, but unfortunately they have shirked their responsibility and have not done that. We have a healthcare crisis in our great United States. This is not just about Maine; this is about the entire United States. We have a major problem. We have a problem with greed. We have a problem with certain healthcare costs that have just skyrocketed. We're not in a position to sit back and not do something at this point. It's with reluctance that I support this bill; because I would much rather see this be worked on at the national level. However, it is an option that I feel that we must provide to try to create a situation to reduce healthcare costs. People are struggling with healthcare costs. We must not stop trying to work to reduce the costs for people's healthcare in the state of Maine. Thank you very much, Madame President.

THE PRESIDENT: The Senator from Androscoggin, Senator Snowe-Mello, requests unanimous consent of the Senate to address the Senate a forth time on this matter. Hearing no objection, the Senator may proceed.

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. This is a really important issue, that is why I am doing this. Remember we are only 1.3 million people in the state. Remember there is 22% of our people on MaineCare. Remember we don't have the best economy in the world. That gives you the answer to the question of whether we should be doing this, I believe. We are not the United States of America. We are not a country like France or Germany or all the other nations that do this. Remember, their populations are far more then ours. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I'm not sure how to respond to some of the comments, but let me begin by saying that it is a responsibility of government to provide for its citizens when they are being gouged. That's where we are today. Second, let me just follow up the good Senator from York, Senator Courtney. This clearly

lays out who would be paying and that clearly means that the State is not. Third, just let me point out as well that there is stop-loss insurance that would be provided and that's a safeguard provided for in law.

In the event that there would be a shortfall, pursuant to the law, at that point the program would then terminate, hold, or stop, so there is no involvement. The other part to remember is that we, in this state, are already self-insured. We're State employees. You are covered by Anthem/Blue Cross, but they act only as administrators of this self-insured plan. You are covered by self-insurance. It's amazing you won't let the citizens of Maine get covered that way, but they aren't. In that 2 1/2 months that is exactly what we have under the state system. I suggest that if you don't like self-insurance, quit your health insurance with the State of Maine.

Finally, let me point out one last thing. We are providing out of State dollars close to \$250 million to cover healthcare. Don't tell me we are not paying. That's what we are paying hospitals in PIP payments. That's tax money and you will see it in the budget, if we ever get to it. You will see it and that is what we paid this year and we will pay more next year. We need to be honest about where it is we are and to remember that competition does work.

On motion by Senator **ROSEN** of Hancock, 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 York, Senator Sullivan 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 (#81)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

ABSENT: Senator: HASTINGS

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-285) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Restrict Use of Trails Designed for All-terrain Vehicles"

H.P. 354 L.D. 455

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-291).**

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

READ ONCE.

Committee Amendment "A" (H-291) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Promote Transportation Planning, Increase Efficiency and Reduce Sprawl"

H.P. 861 L.D. 1180

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-296).**

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

READ ONCE.

Committee Amendment "A" (H-296) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Efficiency in the Use of the Communications Equipment Fund" (EMERGENCY)

H.P. 414 L.D. 536

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-294).**

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

READ ONCE.

Committee Amendment "A" (H-294) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 Allow a Landowner To Erect Installations in or near a State or State Aid Highway

H.P. 696 L.D. 921
(C "A" H-222)

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 To Preserve Agricultural Fairs in Rural Maine

H.P. 699 L.D. 924
(C "A" H-227)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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:

ENACTORS

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

Emergency Measure

An Act To Establish a Special License Plate To Honor Maine Residents Serving Our Country

H.P. 724 L.D. 964
(C "A" H-223)

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 To Clarify and Update the Laws Related to Health Insurance

H.P. 1053 L.D. 1503
(C "A" H-234)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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:

ENACTORS

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

Acts

An Act To Provide Native Americans with Lifelong Licenses and Permits to Hunt, Fish and Trap

H.P. 49 L.D. 51
(C "A" H-228)

An Act To Ensure Equitable Geographic Representation on the State Board of Education

S.P. 240 L.D. 791
(S "A" S-107 to C "A" S-43)

An Act To Allow Special Olympics Maine To Conduct an Open Bass Fishing Tournament

H.P. 622 L.D. 825
(C "A" H-230)

An Act Concerning the Taking of Nuisance Animals

H.P. 979 L.D. 1387
(C "A" H-229)

An Act To Protect a Borrower's Right To Use the Borrower's Chosen Accounting Service

H.P. 1022 L.D. 1452
(C "A" H-235)

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 Support the Maine Patent Program

H.P. 632 L.D. 833
(C "A" H-225)

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

An Act To Create a Service Model for Delivering Career and Technical Education

H.P. 1057 L.D. 1532
(C "A" H-224)

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:

Resolves

Resolve, Directing the Maine Turnpike Authority To Study the Relocation of the York Toll Booth

H.P. 412 L.D. 534

Resolve, Regarding Measures To Ensure the Continued Health and Commercial Viability of Maine's Seacoast by Establishing Nutrient Criteria for Coastal Waters

H.P. 915 L.D. 1297
(C "A" H-219)

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

Resolve, Requiring the Maine Community College System To Return Real Property and Buildings to the City of Eastport

H.P. 192 L.D. 221
(C "A" H-54; S "A" S-110)

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

Resolve, To Authorize the State To Sell a Certain Property with Buildings Located within the City of Old Town

H.P. 1343 L.D. 1911

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, 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 Provide for the 2007 and 2008 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

S.P. 564 L.D. 1620

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-145)**.

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

READ ONCE.

Committee Amendment "A" (S-145) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator BROMLEY for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Ensure Cost-effective Training for Certified Nursing Assistants"

S.P. 570 L.D. 1626

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-146)**.

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

READ ONCE.

Committee Amendment "A" (S-146) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator MARTIN for the Committee on **NATURAL RESOURCES** on Bill "An Act To Protect the Scenic Value of the Kennebec River"

S.P. 531 L.D. 1508

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-147)**.

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

READ ONCE.

Committee Amendment "A" (S-147) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Amend Laws Pertaining to Entry into the Lobster Fishery"

H.P. 392 L.D. 509

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-255).**

Signed:

Senators:

DAMON of Hancock
DOW of Lincoln
SNOWE-MELLO of Androscoggin

Representatives:

PENDLETON of Scarborough
EATON of Sullivan
FLETCHER of Winslow
MacDONALD of Boothbay
McDONOUGH of Scarborough
PERCY of Phippsburg
MAZUREK of Rockland
ADAMS 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-256).**

Signed:

Representative:

EMERY of Cutler

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255).**

Reports **READ.**

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-255)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-255) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 **LABOR** on Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"

H.P. 458 L.D. 591

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

Signed:

Senators:

STRIMLING of Cumberland
SULLIVAN of York
DOW of Lincoln

Representatives:

TUTTLE of Sanford
CLARK of Millinocket
THOMAS of Ripley
HASKELL of Portland
CRESSEY of Cornish
DUPREY of Hampden
DRISCOLL of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass.**

Signed:

Representatives:

JACKSON of Allagash
BURNS of Berwick

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR.**

Reports **READ.**

On motion by Senator **STRIMLING** of Cumberland, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in concurrence.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding the Long-term Contracting Authority of the Public Utilities Commission" (EMERGENCY)
H.P. 224 L.D. 268

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-220)** (8 members)

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

Tabled - May 24, 2007, by Senator **WESTON** of Waldo

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

(In House, May 23, 2007, 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-220).**)

(In Senate, May 24, 2007, Reports **READ**.)

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

Senator **SMITH:** Thank you, Madame President and members of the Senate. I just wanted to say a couple of words about this bill, L.D. 268, An Act Regarding the Long-term Contracting Authority of the Public Utilities Commission. This bill follows on the heels of a long and checkered history of long-term contracting which has cost this state many millions of dollars. For those of you who remember the debacle over PURPA back in the 1980's, the Legislature of Maine enacted a bill called the Public Utilities Regulatory Policy Act that, among other things, required long-term contracting, authorized the Public Utilities Commission to compel the utilities at that time to engage in long-term contracting. I hope I don't have to go into the history there to remind all of you that it was a total disaster. That long-term contracting that the Public Utilities Commission pressed ahead with required utilities to engage in 30 year contracts with small utility generators at prices that were then pegged at \$100 a barrel for oil regardless of what the current price was. The result of that, over a period of years, was that the PUC, seeing the escalating costs of electricity as a result of that directly, delayed payments to the utilities and eventually the utilities ended up writing off hundreds of millions of dollars of rate increases which they were due under the law at that time. This, in my view, is a continuation of the well intended but ill thought out and poor public policy which is going to get us right back into the soup again. The Public Utilities Commissioners do have some authority which was granted last year to engage in long-term contracting but it is done under the law of last year in such a way that the utilities themselves will not be held responsible if the long-term contracting pans out the way the 1980's adventure did. This bill would attempt to change that and it is for that reason that I feel that we ought not to expand the power of the Public Utilities Commission to engage in long-term contracting. It is a very difficult thing in this world economy we have to understand where electric rates or any other aspects of our economy are going in the long term. This is a highly competitive economy that we live in. Things change almost daily. They certainly change monthly and yearly. To get us back into the business of committing ourselves to long-term contracts could be a very detrimental thing to our ratepayers, to our businesses that are trying to compete in this highly competitive world economy, and I would ask you to defeat the pending motion. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I apologize for having missed the previous discussion and will attempt to outline what this bill does and the rationale for it. This bill is a

continuation of, or clarification of, what we did last session. Last session our committee unanimously passed, I believe in both Chambers, a bill which gives the PUC authority to enter into some long-term contracts. The concern we had and the things that we were wrestling with last session were the tremendous price volatility, the rising prices, and there were concerns about the stability of our capacity of electricity. As part of our effort to address those issues we passed a bill that included giving the PUC authority to require utilities to sign long-term contracts. This was at a time when we were thinking about wind generation and there were a lot of great wind projects. Unfortunately, their capital costs are very high and it can be difficult for some companies to go forward on those projects with assurance that they are going to be able to sell their power later on. We gave the PUC authority to enter into some long-term contracts so that if there were proposals to put new steel in the ground here in Maine we could enter into contracts related to energy to help stabilize the electricity supply, to help diversify our electricity supply, and to help ensure that we could promote renewable energy to meet Maine's energy needs and know that we weren't going to have potential black-outs or high prices. In addition to wind power, other opportunities that could be available through long-term contracting includes things like hydropower up in Canada or nuclear power, should the Canadians go forward with their proposal to add a new nuclear reactor. This would help us tremendously to diversify our electricity portfolio. To give you a sense, right now 60% of the electricity produced in Maine is natural gas. We are incredibly sensitive to prices. Natural gas prices have sky rocketed and the prices for the electricity has gone up as well. A long-term contract was seen as a way to diversify our portfolio and protect consumers. That's what we did last session.

As the PUC was working through the rules they came back with a number of suggested changes to it. There is a long list of changes, some of them major and some much more minor. As a committee, we worked through them and about 90% of them we all agreed were either in or out. There was a very small handful that turned primarily as semantics, just kind of the way things were worded. I think there was one provision that there was some disagreement on whether it should be included, but we all basically agreed, as a committee, that we needed to make these changes in order to make the law we passed last session work. For some reason we ended up with a divided report, largely due to some semantic differences over a couple of issues. It is unfortunate that this happened, but it is important to understand what defeating this bill would do. It would mean that the law we passed last time, with respect to long-term contracting, would be moving forward with a number of flaws that everybody recognizes needs to be improved upon. The status quo of doing nothing is a way to make sure that the long-term contracting proposal fails miserably and incurs some of the problems that we need to avoid. This bill is simply trying to clarify what our intent was when we passed the bill last year and make sure it can be implemented smoothly on a going forward basis. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Senator **BARTLETT** of Cumberland 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 (#82)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

ABSENT: Senator: HASTINGS

18 Senators having voted in the affirmative and 16 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** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-220) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

HOUSE REPORTS - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Enhance Availability of Emergency Telephone Services"

H.P. 975 L.D. 1383

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-282)** (9 members)

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

Tabled - May 24, 2007, by Senator **WESTON** of Waldo

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

(In House, May 23, 2007, 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-282).**)

(In Senate, May 24, 2007, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-282) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SENATE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Raise Benefits for Farmers under the Milk Subsidy Program and To Prevent Price Gouging in the Sale of Milk"

S.P. 262 L.D. 852

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-139)** (12 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-140)** (1 member)

Tabled - May 24, 2007, by Senator **NUTTING** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-140)** Report

(In Senate, May 24, 2006, Reports **READ**.)

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I know the time is probably a little passed when people might be considering going out and getting a sandwich and of course a glass of milk with that. Seriously, this is a very serious issue. We've had a tier program in Maine for 2 years now that has really protected our dairy industry. If we hadn't had it I'm sure we'd be like New Hampshire, who has lost a huge percentage of their dairy farms in the last 2 years because of very low federal prices. I know the various individuals, the dairy industries and the processors and the supermarkets, try to work everything that the Agriculture, Conservation and Forestry Committee has charged them out with doing. Because of the supermarket's position that they would not bend any, they were unsuccessful in reaching a total compromise. Milk in Maine, like all states, is extremely highly regulated at every level. It's the only agricultural product produced out there that 24 hours after it is produced, unless it's processed or consumed, isn't worth much. The minimum price for milk is suggested by the Maine Milk Commission on a monthly basis. Right now it is \$3.14. That

includes a fair price for the farmer under the tier program, it includes a fair margin for the dairies, and it also includes the vendor's fee on milk that funds the tier program that's kept the dairy industry going. I'd remind this Body that from 1974 on the retail margin on milk has been unregulated. That has been increasing almost every year since that time. The committee, in our deliberations on this bill, discovered many small stores in Maine that were selling private labeled, Garelick, Hoods, Oakhursts, Holden Farms milk, in their stores for \$3.29, \$3.39, or \$3.49 a gallon. Very reasonable prices. However, we also found that the largest stores in Maine, supermarkets, were selling that exact same gallon of milk for between \$4.79 and \$4.99 a gallon, telling our consumers who asked that it was because of the tier program. That was very disheartening for the Agriculture, Conservation and Forestry Committee to learn that.

This Minority Report that I am asking for you to support, in a Division I assume, is the only report before you that protects the dairy industry, protects the processors, and protects the consumers of Maine. It is based on a New York law that they have had for 6 years. In New York the price that consumers pay for milk in stores is tied to what the farmers are paid. This Minority Report strikes the Senator from Somerset, Senator Mills' original anti-gouging bill and replaces it with language that says milk in Maine, at the retail level in the large stores, cannot be sold for more than 275% of what the farmers are paid. That would cap prices now at about \$4.50 a gallon. Yes, the supermarkets don't like that. They've been lobbying against this and it is their right to do so. In summary, I just want to ask you for your support of this Minority Report. It's exactly the same as far as the wording of the Majority Report in its' protection of the dairy farmers, who have continued funding the tier program. It's exactly the same as the Majority Report in its' protection of the processors. It just goes one step forward, one step beyond, and protects our Maine consumers by a process that has worked very well in New York for 6 years now. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. It pains me to rise on this bill. I want to thank the good Senator from Androscoggin, Senator Nutting, for the work he's done. We always try to get unanimous reports if we can. I think we've done fairly well at that and I thank him for his leadership on that committee. This is one that we parted company with, obviously. I would just like to lay out some fairly simple facts. I do not disagree with most of what the good Senator had to say. It's a tough business out there. What changed some of our minds on this issue of what you might call price gouging or price fixing, you can characterize it either way, is that the people in the business got together, Hannaford was one and the Maine Grocer's Association who represents smaller folks was another; three processors, Hood, Oakhurst, and Garelick; three dairy farmers were involved in selling milk to these folks; the Agriculture Department; and the Milk Commissioner, who I might add is charged with the mission to take into consideration the needs of all segments of the dairy industry from farmers to consumers. They had already set minimum prices for milk at the farmer, processor, and retail level. Those folks went out and made a handshake deal, if you will, that we tried to honor. I think you have probably heard more about milk pricing than you want, but what struck me was that there was really one retailer that's

having \$5.00 milk around here, Shell. You can go to \$5.00 milk when down the road in many of these stores you can buy the \$3.00 milk. If everyone had this at \$5.00 I would say you don't have competition, but it looks to me that with the price of gas you don't want to drive very far, but obviously there is some competition in our minds. We also said in the Majority Report that we wanted to keep an eye on this. One of the things we took a look at is that we want to observe what takes place between now and January and look at the factors in the milk prices and dairy prices. If there is an issue we thought we could report out a bill to deal with the issue. With all due respect to the good Chair for the work he does, I would oppose the Minority Report. I might point out one more thing, if I may. If you look at the folks on this committee, Representative Carter of Bethel is involved in the dairy industry, Cray's a farmer, Peter Edgecomb out of Caribou is a farmer of sorts, Representative Lundeen was a potato farmer, and I still fool around with some farming with some potatoes and beef cattle after having a dairy with my father. So this isn't city folk against urban folk. I think what you have is a issue with one individual. I would oppose the Minority Report.

At the request of Senator **WESTON** of Waldo a Division was had. 14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-140)** Report, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-139)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-139) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/5/07) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, To Reduce the Size of State Government by Four Percent

H.P. 434 L.D. 556

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-37)** (10 members)

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

Tabled - April 5, 2007, by Senator **SCHNEIDER** of Penobscot

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

(In House, April 4, 2007, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-37).**)

(In Senate, April 5, 2007, Reports **READ.**)

The Chair ordered a Division. 24 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-37) **READ.**

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-37), in **NON-CONCURRENCE.**

On motion by Senator **ROSEN** of Hancock, 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 (#83)

YEAS: Senators: BOWMAN, BRANNIGAN, BROMLEY, BRYANT, HOBBS, MARRACHE, MARTIN, MITCHELL, PERRY, ROTUNDO, SULLIVAN, THE PRESIDENT - BETH B. EDMONDS

NAYS: Senators: BARTLETT, BENOIT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, MCCORMICK, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, TURNER, WESTON

ABSENT: Senator: HASTINGS

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** Committee Amendment "A" (H-37), in **NON-CONCURRENCE, FAILED.**

Committee Amendment "A" (H-37) **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/10/07) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Equalize MaineCare Reimbursements to Hospitals"

H.P. 499 L.D. 650

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-162)** (9 members)

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

Tabled - May 10, 2007, by Senator **MARTIN** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 3, 2007, 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-162).**)

(In Senate, May 8, 2007, Reports **READ.**)

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

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 Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. I speak in opposition to this and would prefer that we support the Ought to Pass, Majority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brannigan 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 (#84)

YEAS: Senators: BRANNIGAN, BROMLEY, BRYANT, STRIMLING, THE PRESIDENT - BETH B. EDMONDS

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, SULLIVAN, TURNER, WESTON

ABSENT: Senator: HASTINGS

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-162) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/16/07) Assigned matter:

Bill "An Act To Make Lobster Trap Molesting a Civil Offense"
H.P. 18 L.D. 16
(C "A" H-74)

Tabled - May 16, 2007, by Senator **WESTON** of Waldo

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74)**, in concurrence

(In House, April 26, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74)**.)

(In Senate, May 16, 2007, **READ A SECOND TIME**.)

On motion by Senator **DOW** of Lincoln, 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 (#85)

YEAS: Senators: **BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MILLS, MITCHELL, NUTTING, PERRY, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS**

NAYS: Senators: **BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, NASS, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON**

ABSENT: Senator: **HASTINGS**

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/17/07) Assigned matter:

HOUSE REPORTS – from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Establish the Missing Senior Citizen Alert Program"

H.P. 587 L.D. 769

Majority – **Ought Not to Pass** (11 members)

Minority – **Ought to Pass as Amended by Committee Amendment "A" (H-196)** (2 members)

Tabled - May 17, 2007, by Senator **DIAMOND** of Cumberland

Pending - motion by same Senator to **ADHERE**

(In House, May 10, 2007, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMEND BY COMMITTEE AMENDMENT "A" (H-196) AS AMENDED BY HOUSE AMENDMENT "A" (H-218)**, thereto.)

(In Senate, May 15, 2007, on motion by Senator **DIAMOND** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 16, 2007, that Body **INSISTED**.)

Senator **WESTON** of Waldo requested a Division.

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

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I'll be very brief. This bill had almost a unanimous committee support of the Ought Not to Pass. The intention and what the sponsor wanted to do is admirable. What it does is create a Senior Alert Program within the Department of Public Safety. Senior citizen, in this case, is defined any one who is 60 or over, which is about half the folks in this Chamber, I think. It would establish a program, it would also require the Commissioner to create a Director for that program, and it then it required the local law enforcement agencies to send their notices through the Department of Public Safety as a clearinghouse. The problem is that we already do all of that. The Department of Public Safety already has an alert program, not just for those people who are 60 and over but also for children and for other ages as well. This was a State Mandate when it came out of the committee, which made it even more unattractive. What happened before it got to this end of the hall was that it became

amended down so it now says 'may'. Essentially what it says is we 'may' do what we are already doing. It used to say that you have to do what you are already doing. The intent was great, but we really don't need this. The Department of Public Safety will tell you, as they told us in great detail, they do all of this. The local law enforcement agencies have a network now with the State. It works very well, as does the national missing person's program. It's all in place. It works very well. We really should not pass this law and put it on the books. I'd appreciate your support of an Adhere. Thank you, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President. I would like to ask a question.

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** Thank you, Madame President. I'm somewhat lost and I don't understand. It's my understanding that you have to wait 24 hours before you can report someone missing. That's not true in what we call the Amber Alert for young children, because time is of essence. Is it true that we wait 24 hours for older people, thinking of medication that people may need or whatever?

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I would alert the good Senator from York, Senator Sullivan, that with missing persons we are not required to wait 24 hours, depending on the severity of the case or the potential of the severity. We were informed that this can happen at any time if there is considered to be a danger to the person missing. It's all about judgment of the law enforcement agency or the Department of Public Safety at the State level.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Diamond to Adhere. 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 (#86)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, PLOWMAN, ROTUNDO, SAVAGE, SCHNEIDER, SHERMAN, SMITH, STRIMLING, TURNER, WESTON, THE PRESIDENT - BETH B. EDMONDS

NAYS: Senators: COURTNEY, DOW, NASS, RAYE, ROSEN, SNOWE-MELLO, SULLIVAN

ABSENT: Senator: HASTINGS

27 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DIAMOND** of Cumberland to **ADHERE**, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (5/17/07) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish a Labor Center within the University of Maine System"
H.P. 115 L.D. 123

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-142)** (7 members)

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

Tabled - May 17, 2007, by Senator **BOWMAN** of York

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

(In House, May 16, 2007, 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-142).**)

(In Senate, May 17, 2007, 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 Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. This is a bizarre situation. We're trying, by legislation, to step into the administration of the University of Maine System and direct them to open a particular kind of curriculum in school. They already have a department that addresses labor issues in Orono. It's been there for many decades. I think, as I understand this bill, it would direct them to establish some sort of similar school down in the University of Southern Maine. Frankly, this is exactly the kind of question that ought to be resolved by the trustees of the University of Maine System. It is really not our province, in my view, to be directing them to establish schools or curricular of any particular kind. It's well beyond anything that we have expertise in, in my view.

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

Senator **BOWMAN**: Thank you, Madame President. I very respect my colleague, whose name is also Peter, the Senator from Somerset, Senator Mills. I believe that the plan and intent of this bill is to establish a complimentary center at USM, not to create anything that is redundant. That's way I will be voting for this.

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

Senator **STRIMLING**: Thank you, Madame President. I'd also note that when the Labor Center was created at the University of Maine that was also done through the legislature. I will be offering an amendment to try to create some balance between restoring some of the funding for the University of Maine in Orono because they got some cuts.

THE PRESIDENT: The Senator should speak to the motion before us. The pending question before the Senate is the motion by the Senator from York, Senator Bowman 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 (#87)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

ABSENT: Senator: HASTINGS

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-142) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/17/07) Assigned matter:

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Protect Pregnant Women and Children from Toxic Chemicals Released into the Home" H.P. 1167 L.D. 1658

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-231)** (10 members)

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

Tabled - May 17, 2007, by Senator **WESTON** of Waldo

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

(In House, May 16, 2007, 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-231).**)

(In Senate, May 17, 2007, Reports **READ**.)

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

Senator **SMITH**: Thank you, Madame President and members of the Senate. We, too, in the Natural Resources Committee tried to get as many unanimous reports as we could. This one, however, we could not. I need to explain myself, so I'm here to do so. Today the Senate is confronted with an unfortunate choice, I believe, in this committee report. In my review, in my view, the subject matter of this bill should be regarded first and foremost as a fire safety issue and only secondarily as an environmental issue. This bill, however, has been identified by a number of important environmental organizations as one of their highest priorities for this session and their efforts to promote it have taken on the trappings of a high-powered political campaign. From the very beginning, when I was first approached, and believe me, I have been approached on numerous occasions by both sides, I have maintained that, for me at least, the science of this matter should be determinative. Accordingly, both sides have filled my files with all kinds of studies, some scientific and some not. I will tell you that I've tried my level best to read them all and to understand them. Before laying out my reasoning for voting against this bill, I think a little background might be helpful to the Senate.

Polybrominated diphenyl ethers, commonly known as PBDE's as a group, have been in use in the United States for quite some time. PBDE's are further denominated into subcategory names based upon their chemical structure. Deca is one of several such subcategories. It is presently used in a number of important applications, including many television casings, computer casings, electrical components of all sorts, and in automobiles. It is the highest performing cost-effective flame retardant available today. The present legislation proposes to prohibit the sale and distribution of television casings and computers containing Deca after January 1, 2010. It also proposes to ban Deca in mattresses and upholstered furniture, which are not applications that are presently used in the state of Maine and is largely superfluous. Deca in particular has been in use in the United States as a fire retardant for more than 30

years. Prior to its introduction in many of our most important consumer products, fast moving fires, unchecked by any flame retardant, cost thousands of lives and untold misery to burn victims each year. In recent years numerous studies have shown that there are detectable levels of Deca in our environment due to its widespread use as a fire retardant. These detectable levels are extremely low and well under the levels suggested by any regulatory agency as posing a cause for concern at this time. For instance, it has been noted that one of the means of human exposure is common household dust which has been found to have a PBDE content of 2-4 PPB, parts per billion, and of that Deca constitutes about half, which is 1-2 parts PPB. Much has been made of the fact that Deca has also been detected in breast milk, thus part of the title of this bill. The highest level ever detected in that situation is 500 PPT, parts per trillion, far from any level which the U.S. Center for Disease Control and Prevention or the World Health Organization regard as a concern for human health. By the way, both organizations continue to recommend breast milk as the best food for infants. Just by way of reference for scale, if you were to visualize a trillion in seconds it would take more than 32,000 years to reach the trillionth second. Clearly the detectability of Deca in breast milk is more a tribute to the measurement capabilities of modern science than it is a cause for concern at these levels.

With the discovery that Deca is now detectable in the environment, numerous studies have recently been launched, some of them using animals, notably rats and mice, to determine the effects of Deca in high dosage levels on those species. One such study has been very recently concluded by Maine's own toxicologist using very young, in fact newborn, mice at extremely high dosages of Deca in a study designed to determine whether there were neurological effects after ingestion. Not surprisingly, these very high doses, which on a relative basis are way above anything that humans are exposed to in the environment in which we live today, produced some effects but the results were mixed at best and partially inconsistent with at least one earlier study. In a recent program that I attended in which toxicology reports were discussed I learned that such reports must be followed by a number of validation steps including replication of the findings and further scientifically valid studies by competent scientists. It is my understanding that such validation has not occurred with respect to this study in newborn mice and the inconsistency with the prior study may be reason for scientist to withhold validating judgments on both these studies. The author of the Maine study, in noting these inconsistencies herself, concluded, and I quote, 'Much work remains to be done to characterize the developmental neurotoxicity of PBDE.' A number of assertions have also been made, particularly by environmental interests, about the environmental degradation caused by Deca. These assertions are often based upon incomplete work and in most instances the underlying studies conclude that further work is needed to test these assertions and validate them scientifically. That is the case in almost all of the studies that I took the time to read.

In furtherance of much needed validation and in the face of contrary findings in the European union after a 10 year risk assessment, the United State's EPA is nevertheless taking a number of important Deca related initiatives at this time and that is ongoing and will be for the next couple of years. I will try to list those initiatives here in a moment. It is particularly noteworthy that no studies have linked Deca to known harm to humans at this time. Finally, by way of background, I would note that the 121st Legislature enacted Chapter 629, which among other things

required DEP and DHS to submit an annual report on developments with respect to brominated flame retardants. Specifically, DEP was instructed to report, and I quote, 'Regarding the national availability of safer alternatives to Deca.' It was the expressed intent of the 121st Legislature to consider prohibiting sale of Deca if such safer alternatives could be identified. In its report dated January 2007 DEP identified a more recently developed flame retardant called resorcinol bis diphenyl phosphate, commonly known as RDP, as an alternative but it is decidedly unconvincing in whether it is a safer alternative or not.

Here we are, DEP has suggest a limited ban on Deca and the real question is should it have. My answer to this question is no. Not at this time. Here is why. DEP did not carry out the mandate given to it by the 121st Legislature to identify a safer nationally available alternative. In fact, it turned the legislative mandate upside-down by stating in its latest report to the Legislature that by safer, and this is a quote from the DEP report, 'By safer we understand the Legislature to mean an alternative that compared to Deca has not been shown to pose the same or greater risk to health or the environment.' This distorted interpretation of the legislative mandate allowed DEP to assume that any untested flame retardant is safer simply because it has not been found to be less safe. In other words, the mere lack of data would allow DEP to assume that a flame retardant is safer. I regard this maneuver by DEP in trying to define its way around the legislative mandate to be a serious mistake, some might even call it a breach of public trust, that deserves a strong rebuke by this legislature. If DEP had done as it was instructed by the 121st Legislature it is unlikely that we would be here today trying to debate this bill.

None of the flame retardant alternatives in the marketplace are understood well enough to replace Deca at this time. DEP has looked at all of them and ticked them off in its report. Let me tick them off to you. Melamine cyanurate: DEP found there was little toxicity data on this chemical and that the German Federal Environmental Agency found it unsuitable as a flame retardant. Magnesium hydroxide: DEP reported that in a Danish review there was no information found on environmental fate or toxicity. Ammonium polyphosphate: No specific studies on toxicity were identified. Red phosphorous: Little toxicity information available. Alkyl phosphinic acid: Little data was found, no reports at all on the environmental fate or toxicity of these compounds. Bisphenol A diphosphate, commonly known as BAPP: This is an interesting one because it is the most recently developed flame retardant, a so-called 3rd Generation. This compound DEP finds unsuitable, unlike the others, as an alternative because of limited toxicity information and the fact that it breaks down into Biphenol A, which it says is a potent endocrine disruptor.

I would note that despite the lack of evidence as to the toxicity and general safety of all of these compounds except BAPP would meet the safer standard that DEP has now adopted, which has not been shown to pose the same or greater risk to human health or the environment than Deca simply by virtue of the lack of data. I would expect there would be few among us who would feel that this convoluted DEP definition of safer would provide the basis for an informed decision on whether these chemicals are safer and therefore a suitable alternative.

Now let us turn to what DEP tells us is the apparent preferred alternative. Resorcinol bis Diphenylphosphate, RDP: DEP tells us in its report, and I quote again, 'As with BAPP, there is little information on the fate and toxicity of RDP, toxicity to animals that continues was considered to be moderate based on limited data

but laboratory studies documented high toxicity to aquatic organisms. The German Federal Environmental Agency in its evaluation of flame retardants could not make a recommendation concerning the suitability of RDP due to lack of data.' Given DEP's own description of RDP as I have shown it is clear that it is a very little understood compound and may have unacceptable toxic effects. In addition, despite the fact that RDP has been around for a number of years now, no other regulatory agency in the world has found RDP to be safer than Deca. None. In addition, RDP will bioaccumulate at much higher rates than Deca.

In looking at the whole of this report, it is clear that DEP could not show that any of the alternatives that are currently on the market and that it listed in its report could be found to be safer with any reasonable reading of the legislative directive from the 121st Legislature. The recommendation of DEP to undertake a limited ban on Deca that is suggested in this most report is based on incomplete and insufficient data. Deca, however, has recently gone through a 10 year risk assessment by the European Union, which has left Deca in place as a front line retardant in Europe, and to answer any remaining questions the U.S. EPA has just launched a major review of all PBDEs based on recent concerns. On page 9 of the EPA project plan for this, which is dated 2006, it sets forth a number of specific activities which it is currently undertaking with respect to Deca.

Not to prolong this any longer, and I know it's gone on quite a while, but this is important. I just wanted to list a few examples of what the EPA is currently doing. It is conducting a review of available, and I'm taking this directly from the report of the EPA dated March 2006, toxicology data for Deca. Secondly, it will monitor ongoing and planned research on the toxicity of Deca and its metabolites. Of particular concern are developmental neurotoxicity studies on Deca that is being sponsored by the European Union and studies conducted by FIRE, which is a special project having to do with endocrine effects. Thirdly, EPA will further investigate the environmental fate and metabolism of Deca, including the potential for formation of lower brominated congenitors and it will prepare a white paper that reviews the available information on the environmental fate of Deca. The purpose of this paper is to assess potential for debromination of Deca through various natural mechanisms; the rate, extent, and conditions under which debromination may occur and whether debromination of Deca is likely to be a significant source of lower brominated PBDEs in humans and wildlife. The paper will also identify additional studies that would be helpful to developing a better understanding of the environmental fate of Deca. Emerging information currently under development and anticipated over the coming year will be an important part of this evaluation, including data needs around the world.

I'm going to stop with that. I will simply, in conclusion, say that I think there are a number of bases for voting against this bill. First, Deca is undisputedly the most effective and efficient flame retardant in the world. To date there is insufficient available verifiable data that Deca has caused human health problems. The alternative flame retardants suggested by DEP has apparent environmental problems associated with it, which could in the foreseeable future remove it as a reasonable alternative. DEP undermined the legislative directive to report on safer alternatives to Deca and as a result has diminished this legislature's ability to correctly determine the proper fire retardant policy for the state, potentially leaving the public at risk for death or injury unnecessarily by fire. Within a year or so, as I have just indicated, the U.S. EPA will have completed a battery of initiatives

which will inform us all much better about the current situation with respect to Deca and hopefully other flame retardants. Before we create a fire safety crisis in the state that will throw us back into the 1930's we should take the time to fully analyze all the data that will soon be available. The alternative flame retardant, RDP, suggested by DEP could very well be found in the near future to be too dangerous in the high volumes in which it is going to have to be used in television casings and most certainly could be found in the environment as is Deca in a short period of time because of these higher volumes. This bill will not ban Deca, contrary to what many of you have been told. It will take Deca out of television casings and leave about 60% of the Deca that is now in commerce here in the state of Maine. With the enactment of this bill, Maine will remove from one very important application its most effective and efficient flame retardant while failing to create a rational fire retardant policy. Maine law will not even have a requirement for flame retardants. Finally, we should say no to this bill simply because we have not done our homework. There is a lot more work to be done before this bill is enacted to ensure the safety of Maine's people in one of its greatest threats. This bill should be re-referred, in my judgment, to the Natural Resources Committee with instructions to develop a safe and sensible flame retardant policy over the next few months and maybe by that time we will all be on the same side.

In conclusion, I would say that if we proceed with this bill today and approve it and turn it into law Maine will be the only state, the only jurisdiction in the world, that will have statutorily banned Deca, taken it off the table. Some will say that the State of Washington acted recently to do that. It did not. Washington did not statutorily ban Deca, it simply set up a mechanism similar to what Maine already has in place. Once a safer alternative can be found, through an elaborate regulatory process involving all stake holders and all public authorities that have to do with fire protection, then Deca can be banned. No state in the country, no nation in the world has found a substitute for Deca that is safer. Maine seems to be going it alone. Dirigo, let's not lead Maine off the cliff. Thank you.

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

Senator MARTIN: Thank you, Madame President and members of the Senate. You've heard all kinds of reasons why you shouldn't do this. Let me try to be brief and tell you why you should. First of all, Deca is added to foam and plastics. It simply mixes with the chemicals, sometimes it bonds and sometimes it doesn't. These plastics then are used in televisions and in plastics. When it burns, and when it is heated, it basically prevents the spread of flames, but it creates a potential danger, a tremendous danger, for firefighting personnel. It, in itself, obviously retards the fire but remember the product is what causes the problem. I need to just tell you that there is one country that bans it entirely. Sweden does. Most of Europe is moving in that direction, but have not gotten there yet. Obviously we tend to be much slower than our friends across the pond. I also want to point out that, and I tried to push this on everyone but no one chose to do this, we don't need to use this at all. Let's go back to using wood to put the television in. Just imagine what it could mean for our wood industry in Maine. The problem is that plastic that surrounds the television set that you have just purchased.

Let me back up very quickly. In the 121st Legislature we did enact, as pointed out, legislation that prohibited the sale of PENTA and OCTA. We directed the Department of DEP and Maine CDC to review assessments and rulings dealing with this particular issue. Both of them have come forth and recommended that we do what we are doing today. The bill does a couple of things. It also prevents the use of Deca in mattresses. By the way, it's not being used now, so we are preventing it before people decide to use it. That's one of the areas which people have been looking at as a way to put it in and start using it. Remember, there is an advantage for the industry to put it elsewhere because they will make more profit. I understand that. I can see where they are coming from. What we are basically saying is that we don't want it put in furniture or mattresses and that becomes effective after January 2008. Then we are saying that in 2010 to stop using it. I think that the bottom line is the question of is there something we can do to prevent the danger to firefighter personnel. The answer is yes. Do we know if Deca is a problem? The answer is yes. The only issue is that some people say we ought to wait until something else comes along. What I have discovered is that if you outlaw something, something else will come along. I'll just remind you that back in WWII butter was unavailable. Some of you may remember this. They started producing oleo. Then they put a little packet of yellow stuff that you would then mix with the white stuff to make it look like butter. Guess what? It was derived as the direct result of our shipping dairy products to our fighting personnel abroad. Just one of those things. When we get a shortage, we create alternatives. Frankly, that is what we can do here. It's that simple. I could really go after you all and start suggesting other options, like using ULVO rated HIPSSPOPO and we could use PCAPS plastics, but I don't need to bore you all with that because it's all there in the record and you can read it. I think we're on the right direction and I would urge you to vote yes.

On motion by Senator **MARTIN** of Aroostook, 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 Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I hadn't intended to speak on this bill today or take up much time. I have to speak now because I am the lead Republican sponsor of this bill, maybe the lead sponsor, I don't know. The group depended on me a lot for this bill. I didn't know how I was going to start out, but luckily the Senator from Franklin, Senator Gooley, sent me a note and helped me get started with my presentation. He wanted to know if my mattress prices were going up 20% without Deca. The answer is no they are not because the mattress industry has already rejected Deca as a source of flame retardant and gone with something else. A few years ago this was a major problem. People were burning themselves up in beds and the solution that the United States had come up with was to attach a gold tag to all the upholstery and the mattresses. If you got through all the bull that was on the tag, the tag basically said dummies, don't smoke in bed. That wasn't good enough, so the industry did tackle the problem of people burning themselves up in bed by making mattresses more fireproof. They did it after several years. I went through this, believe me, I listened to the whole argument all along and

watched it go through Congress. I watched it get delayed a few times because the major manufacturers were having trouble figuring out what they were going to do. They eventually figured it out. They made the mattresses more fireproof without Deca.

You might think, as a chemistry teacher, I might have a heads up on all the chemicals. I don't. Everything that's involved here with such great detail, but you and I are never going to have time to look at. I had to go a different route. You know what they say about teachers; if you can't be a chemist, teach chemistry. That's what they say about some of us anyways. I just took a look at what was going on around me. The mattress industry had already chosen a different alternative. I asked myself the question, why? The upholstery industry will be tackling the same problem in a few years and I'll guarantee you they are not going to go the Deca route because the mattress industry has already rejected it. They are not going to go that way. They are going to go with some other choices. I used a different approach to decide, amongst all these chemicals, whether it was going to be safe or not.

While I'm up here I'll tell you why I'm really on the bill and what I really think of the approach that we've taken to chemicals in society. We've had, as it's been said, the Natural Resources Council and some of those environmental groups pick a product per year or a chemical per year and we go at it that way. We went through lead. We went through mercury. This time it's Deca. I've got to tell you that Deca is an easy one. Deca is already on its way out. Just a few TV manufacturers are still using it. It's on its way out and I kind of got after them for picking an easy one. What I want to say is this, I do know, as a chemist, that I read widely scientific journals. We've got 30,000 chemicals in the environment. We're adding dozens to hundreds more every year. If we're going to pick them apart, one by one, we're going to lose as a society, as a nation, as a population on this planet. We've got to take a different approach to how we look at things because the Senator from Piscataquis, Senator Smith, is exactly right about the new chemicals that are out there. We don't have the research on them. The research that exists on them is 15 to 25 years away. You've got to remember that we've had a lot of bad chemicals in this society. The Agricultural Department once okayed DDT as an acceptable product to use. You realize that teflon, the stuff in your fry pan, has been put on the carcinogen list? After all these years. It was invented for the space program and for the moon shot because they needed a lubricant that was greaseless, that would work in space at 450° below Fahrenheit. Yet it is on our list. We must take a new approach to how we look at the things that we put into society and so this gives me my grandstand stage today to say so. I support this bill. I know it's just one chemical. To me it's an easy one. We've got to take a new approach as environmentalists, as conservationists, and so what if Maine is the only state in the union to ban it. We do need to be leaders in certain areas. Maine is a particular state. We value our way of life. We value our environment. We value the conservation work that goes forth to make Maine the state that it is, to make it attractive for other people to come here, hopefully, for businesses as well. Tourism. I don't see anything wrong with being a leader in the environment and I think that Maine should proceed full speed ahead for the welfare of its people and therefore I ask you to support this bill. Thank you.

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

Senator **BARTLETT**: Thank you, Madame President. I rise in support of this bill because I do think the argument in support of banning it are compelling. I'm no scientist and as I started to look at some of the scientific studies I can't begin to articulate all the intricacies of the methodologies. Will we be able to justify all of them? I did notice a trend in the studies we were looking at. The studies that were done by universities, unbiased, unfunded by industry, tended to suggest that there was a real problem here. That Deca was toxic. That there was a problem and that it should be eliminated from the environment. Studies that were funded by the chemical companies, on the other hand, found there wasn't a problem. To me that automatically sends alarm bells off, as a non-scientist and understanding the importance of the role that money often plays in science as in every other facet of life. I did find, as we were sitting in committee listening to the studies, that the arguments and the studies done on mice were very compelling. Not only is Deca potentially a problem in-of-itself, but the way it interacts with other chemicals is just as much of a problem. There is a reason why a chemical company could get a different result. If they are looking exclusively at one chemical, they are not looking at its interaction with everything else in the environment.

Based on that limited information, it seemed to me that outlawing this chemical made good sense provided that we weren't causing more harm to people by eliminating a needed fire retardant. I went and asked the folks who are on the frontlines every day fighting fires, the firefighters throughout the state of Maine. They were very supportive of banning Deca. They recognized that there are alternatives available that are likely safer, that this is causing a real problem, and in their view, the folks who are out there fighting fires and saving lives everyday made the assessment that the risks of Deca were not outweighed by the fire prevention aspects of the chemical.

That gets me most of the way there. As we talked in committee about the various alternatives the argument was made over and over again that until we know that the alternative is safer we shouldn't go with it. We should stick with the known harm. I find that a fascinating argument. Basically, an incumbent chemical producer was telling us that we should stick with their unsafe chemical because newer chemicals have not yet reached a higher standard than they are able to achieve. Again, a very troubling sign. We did have an opportunity to talk with scientists in our committee about these alternatives. There are reasons to believe that the leading alternatives are not nearly as problematic as Deca. To me that was enough, knowing that, based on the limited science available, it appears to be safer and to be sufficient to get rid of a known harm. I asked a question in committee about why it is that we don't have more information on some of these potential alternatives. It turns out that the CDC, the Center for Disease Control in Washington, who require all sorts of studies to be done, focused on chemicals that are in wide use. Once a chemical is widely used in our society the studies will get done, but until then they won't. Basically, the argument that we wait until these other chemicals are proven safe, and continue to use the current chemicals until we do so, means that we are probably never going to get the science we need on the alternative because they are not being used and not being studied in the same way. To me it seemed like a natural choice to outlaw the known harm, understanding that there are alternatives that do pose some risks, and ask the DEP to continue to look at the alternative chemicals, continue to follow the

science, and to let us know if the science was suggesting that those were harmful too because if they are we should be outlawing them as well.

Finally, the final piece of the straw that leads me to support this bill was looking at what's going on out there. The Senator from Lincoln, Senator Dow, has alluded to this already. Fifty percent of TV manufacturers have already switched to safer alternatives. Most of the TVs you go out and see have already switched to safer chemicals. That includes Phillips, Panasonic, and Sony, three of the leading brands you'll find in most stores. Also important is that not a single Maine business came forward or product manufacturer here in Maine that opposed this legislation. All these reasons taken together creates to me a very compelling case to ban Deca, to take that action now, but continue to be vigilant and make sure that other chemicals are not harmful as well. Thank you.

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

Senator **SMITH**: Thank you, Madame President and members of the Senate. There's been a fair amount of hyperbole here already on this matter and some things that have been said that are not correct. To correct the recent statement of the Senator from Cumberland, Senator Bartlett, we are not banning Deca entirely. We are banning it from one application that it is being used here in the state now. It's from television and computer casings. We are not banning it from automobiles and if we had we would have had the automobile companies in here opposing it. We are not banning it from a number of other electrical purposes, important ones. All of those companies would have been in here. What we have done is sort of defined ourselves into a position where nobody else would show up except the brominated flame industry to present facts, and they did. What we have here is a situation where we have sort of narrowly taken one application and said we are going to ban it there, but I would note that it's an important application. TVs are one of the hottest electrical items in our homes. I don't know if your family has had the experience of having a TV malfunction, electrically, but mine has. Believe me, it's a bit of a scary function. It's very difficult to get the thing out the window and onto the lawn where you can put some water on it and cool it down. Thank God the TV that we had that experience with had Deca in it, which is a very effective flame retardant, and we were able to do that.

The other thing that I just wanted to correct was the statement of the Senator from Aroostook, Senator Martin, when he said that Sweden had banned it. They have attempted to ban it. The European Union has jurisdiction over this in Europe and the European Union has taken a very different position and the European Union is compelling Sweden to reverse itself. Sweden is not going to be off on its own banning Deca at this point. The other thing that has been said here on the floor of the Senate which is not correct, and I think the record has to be set straight on this, is that somehow Deca creates harm to firefighters. That is patently false. Deca does not create any harm to firefighters. What does create harm is the plastics that Deca is retarding the fire in. Those plastics have many chemicals in them that do create a number of substances in the air that could be harmful to firefighters, but at the same time that this is being created Deca is retarding it so that it will not be as difficult for firefighters. That is something I've heard since the beginning of this debate and I can

assure you that firefighters are not at risk with Deca in a fire. They are better off.

Finally, I would point out what is probably the obvious from the comments of the Senator from Lincoln, Senator Dow. Upholstery and plastics are two very different applications. The use of Deca in mattresses is not necessary because there are other chemical compounds that can be used just as effectively in mattresses, but there are not chemical compounds that can be used as effectively in plastics. That is the narrow key issue here; to get to the UL standards using RDP takes a tremendous volume relative to the volumes necessary in Deca in plastic casings in television sets. We are therefore going to see it show up very rapidly in the environment as well. There are a lot of questions here, all over the place. I will tell you that I am perhaps being more cautious on this than many others would like to have me be, but I believe it is essential if we're going to protect our families. There are only a couple of TV manufacturers that have made the conversion over, I think we would like to see those on the market for a couple of years before we make a final judgment as to whether RDP is in fact better. We know that Deca is very effective. By the way, RDP tends to migrate around in the plastic. It migrates to the surface and it will be therefore out in the environment much quicker than Deca, which does not migrate. There are a lot of reasons here to go slow, be careful, don't expose families in their homes to unnecessary fire hazards, and after a couple of years we could all be on the same side here. I think this is just premature and we ought to proceed on the safe side. There is no environmental crisis here. If Maine bans Deca from these applications and takes 40% out of commerce it's going to have practically no impact on the worldwide detection of Deca. Perhaps in a couple of years while we get some information, particularly on these studies that are currently being undertaken by EPA and others now that we understand that Deca is in the environment in larger amounts than thought, I would be very happy to support this if we can develop a safer alternative. We're not there yet. This is a very risky policy that we're pursuing here today. Thank you.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Very quickly, let me just tell you that most of the manufacturers of TVs are moving away from Deca. I would just make one suggestion, which some of you may all want to think about. If you are really concerned about Deca and you really want to know what impact it might have and where it is in your home, if you happen to have a cat, have the cat tested. You will find extremely high amounts of Deca, far higher than the normal and what it ought to be in any particular animal or human being, because it is in the home and it's there as a result of it simply coming out of the dust that is found in the home. If you've got a rug and cats are rolling around in it, you've got a problem.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin 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 (#88)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, ROTUNDO, SAVAGE, SCHNEIDER, SNOWE-MELLO, STRIMLING, SULLIVAN, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: COURTNEY, NASS, ROSEN, SHERMAN, SMITH

ABSENT: Senator: HASTINGS

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-231) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/22/07) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Address the Evaluations of Certain School Employees"

H.P. 237 L.D. 293

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (H-143) (10 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (H-144) (2 members)

Report "C" - Ought Not to Pass (1 member)

Tabled - May 22, 2007, by Senator **BRYANT** of Oxford

Pending - motion by Senator **MILLS** of Somerset to **ADHERE**

(In House, May 3, 2007, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-143)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-143).**)

(In Senate, May 15, 2007, motion by Senator **BOWMAN** of York to **ACCEPT REPORT "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-143), FAILED.** On motion by Senator **MILLS** of Somerset, Report "C", **OUGHT NOT TO PASS READ and ACCEPTED, in NON-CONCURRENCE.**)

(In House, May 17, 2007, that Body **INSISTED.**)

(In Senate, May 22, 2007, motion by Senator **BOWMAN** of York to **RECEDE AND CONCUR, FAILED.**)

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

Senator **MILLS:** Thank you, Madame President. Just as a reminder, this is the bill where I earlier expressed a great concern. I believe that this concern has been validated by legal counsel for the Maine School Management Association. The provision that is in the text of this bill, which is only a sentence or two, says that a probationary teacher or probationary employee is entitled to a written evaluation at least twice during the probationary period, April 1st of each year. The concern I have is that there is nothing in the bill that tells you what happens if there is a failure on the part of the Superintendent or the Principal to put that written evaluation into the teacher's jacket. My concern is that this could very well give rise to a grievance and to the bootstrapping of an unqualified teacher or unqualified employee into what is basically life tenure because of a small administrative oversight or failure on the part of the school district. As a footnote, I might say that if you are in a state that has 290 separate school units, and passing mandates of this sort, it will make it very difficult for all of these 290 school units to comply with all the technical things that we impose on them. Even if we had only 65 or 70 school districts I suggest to you that this is one of those mandates that we ought not to be passing. Title 20A is full of them already. In point of fact, the practice, as we understood from the testimony, is that these folks are evaluated, often times more than once a year and sometimes up to three times a year. There are oral evaluations. There are written evaluations. Probationary teachers often have mentors and there is a great deal of attention paid to them because it is so important and so crucial to the districts' own interest to see that those teachers are evaluated carefully so they can make an informed and intelligent judgment about whether to give them what is basically a substantial set of rights in the form of tenure. This bill, as simple as it is, is up to no good. It is a way of eroding in a significant way the options that are available to school committees and to Superintendents in regard to probationary teachers. I urge you to vote affirmatively on the Adhere motion so that we can put this bill to rest. Thank you for indulging me at such a late hour.

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

Senator **BOWMAN:** Thank you, Madame President. I believe in getting right to the point rather than droning on and on, so I want to be very brief in my comments here. I'm an engineer by education and experience, but the older I get the more I realize that HR personnel issues are really important. I didn't start out that way, but I'm ending that way. I think that this bill is basically about HR, Human Resources, 101. If you need an explanation I'll

give it to you, but I will spare you that session now. Secondly, I suggest that you put yourselves, before you vote, in the shoes of a person who's a probationary employee. Would you like to be given an evaluation of how you are doing or not? It's as simple as that. I also believe in speaking the way it is, so if you've got an unsatisfactory probationary employee you ought to state it in writing. If it's the other way around, do that also. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. I decided to stay instead of going back upstairs to a committee that we're having a Public Hearing on right now. I want to just quickly say that, as a teacher in the classroom, you are not always evaluated as a probationary teacher. The reason why is that you can be given two years with absolutely no protection and there is no tenure in the state of Maine. There is continuing contract. All that does is allow you to only be fired with just cause. For two years you can be fired with no reason except they don't like the way you smile or that you failed to smile. For educators in the public school system, there is no tenure. Continuing contracts, yes. I am on a continuing contract. It means I have to do something wrong. I have to fail to teach the way my school system feels I need to or I need to do something else wrong, lose my license. You need to have the right to know what you are doing wrong. We need to have people who spend four years of education in college, going on to doing their professional teaching, and somebody needs to be interested. The Senator is correct in saying that you often have mentors. Some systems do. Some systems don't. Everybody should have evaluations in their first two years, not only if they are doing a good job but on how to improve, especially fresh out of college and teaching middle school. I have seventh graders that are much taller than I am. I just have a lot of years on them so that helps me. For that new person coming out of college they need to know how to manage their classroom better and how they can teach better. Those things need to happen. I'm getting the evil eye from the good Presiding Officer. I appreciate that. Please do not support the motion.

The Chair ordered a Division. 19 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **MILLS** of Somerset to **ADHERE, PREVAILED.**

The Chair laid before the Senate the following Tabled and Later (5/22/07) Assigned matter:

JOINT ORDER - Joint Order, Authorizing the Joint Standing Committee on Transportation To Report Out Legislation To Revise Motor Fuel Taxation

H.P. 1342

Tabled - May 22, 2007, by Senator **WESTON** of Waldo

Pending - **PASSAGE**, in concurrence

(In House, May 17, 2007, **READ and PASSED.**)

(In Senate, May 22, 2007, **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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#89)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MILLS, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

ABSENT: Senators: BROMLEY, HASTINGS

18 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 2 Senators being absent, the Joint Order was **PASSED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/22/07) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Prohibit Constitutional Officers from Endorsing Candidates for the Legislature" H.P. 930 L.D. 1322

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-263)** (6 members)

Tabled - May 22, 2007, by Senator **SCHNEIDER** of Penobscot

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

(In House, May 17, 2007, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 22, 2007, Reports **READ.**)

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

Senator **ROSEN:** Thank you, Madame President and members of the Senate. The report that is before us today is acceptance of the Majority Ought Not to Pass on a bill that would prohibit Constitutional Officers from endorsing candidates in legislative

elections. I think we would all appreciate there is a level of sensitivity when it comes to sitting Constitutional Officers taking positions endorsing candidates for the legislature in active campaigns. I think we realize that sensitivity, particularly since the legislature to be elected in that campaign, the winners of that election, will, in fact, select who will fill the offices of those Constitutional positions. There is something uncomfortable in the appearance of using the office to endorse candidates. There is certainly nothing inappropriate when individuals that fill those offices endorse a candidate. If an individual who is a sitting Constitutional Officer wants to put his arm around a candidate and have a nice photo and say that this person is great and here's my name endorsing this individual candidate, that's perfectly appropriate. When it's the sitting Constitutional Officer and the endorsement uses the name of the office, the Secretary of the State of Maine or the Attorney General of Maine or the Treasurer of the State of Maine, that is seen as an endorsement of the office for that candidate. In recent cycles here in recent campaigns from time to time that practice has been implemented. I've had constituents of mine that have called me a couple of cycles ago and they were alarmed. They had a message on their machine and it said, 'Hello, this is so-and-so, and I'm the whatever of the State of Maine and I think you ought to vote for the candidate that I'm endorsing.' There were several people that received those calls, misunderstood, didn't even quite realize that it was campaigning, and they asked, 'Why am I receiving this phone call from one of these Constitutional Officers? Am I in trouble with the law? Is there a difficulty? Is there something I am facing?' They were quite alarmed. These were primarily Seniors. There is a distinction between the appearance of an endorsement from the office as opposed to an endorsement from the individual that holds the office. I think this is a limited and appropriately crafted bill. I think it addresses that conflict and I hope that the members here will reject the Majority Ought Not to Pass and go on to accept the Minority Report.

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

Senator **SCHNEIDER:** Thank you, Madame President and colleagues in the Senate. I'll be very brief. This is a philosophical difference of opinion here. I understand my colleague from Hancock, Senator Rosen, is uncomfortable, but the majority was not uncomfortable with people using their titles. In fact, I take a very different position. I think it's honest to say what job they hold when they are calling to suggest a particular candidate. Personally, I think it's much more honest. It's clear. It says how they relate to that person that they are supporting and it's done all the time. The fact is that candidates who are endorsed by particular individuals are called all the time on the phone through robot calls. I think it's completely appropriate and an accepted practice. That's why I hope you will support the Ought Not to Pass report. Thank you very much.

On motion by Senator **ROSEN** of Hancock, 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 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 (#90)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BRYANT, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

ABSENT: Senators: BROMLEY, HASTINGS

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

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

The Chair laid before the Senate the following Tabled and Later (5/22/07) Assigned matter:

Bill "An Act To Clarify Land Planning in the Unorganized and Deorganized Townships of the State"

S.P. 159 L.D. 472
(C "A" S-116)

Tabled - May 22, 2007, by Senator **NUTTING** of Androscoggin

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-116)**

(In Senate, May 22, 2007, **READ A SECOND TIME.**)

On motion by Senator **SHERMAN** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-116).

On further motion by same Senator, Senate Amendment "B" (S-137) to Committee Amendment "A" (S-116) **READ**.

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

Senator **SHERMAN:** Thank you, Madame President. I'll try to be short with this. This amendment was agreed to by the members of the committee. It clarifies the original intent of Committee Amendment "A". What this amounts to is that we are clarifying the process and timing of the comprehensive plan that the Maine Land Use Regulatory Commission is going to work on. There was an issue of timing of when the Commission was to bring the report back to us. It requires the Commission to present the final draft at least 30 days prior to the scheduled vote by the Commission on adoption of the plan. There was a problem there, if they didn't get it done. We asked for the final draft that was set in the committee but not in the prior amendment. The final draft was not completed before December 3rd. They will present us with a revised version of the plan. That is the gist of the amendment. I think both Body's have seen it and all the members of the committee have seen it, so I ask that it be adopted.

On further motion by same Senator, Senate Amendment "B" (S-137) to Committee Amendment "A" (S-116) **ADOPTED**.

Committee Amendment "A" (S-116) as Amended by Senate Amendment "B" (S-137) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-116) AS AMENDED BY SENATE AMENDMENT "B" (S-137) thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/22/07) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Delay the Fiscal Sustainability of the Highway Fund"

H.P. 732 L.D. 972

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-232)** (1 member)

Tabled - May 22, 2007, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, May 15, 2007, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 16, 2007, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#91)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN,
BRANNIGAN, BRYANT, DAMON, DIAMOND,
DOW, GOOLEY, HOBBS, MARRACHE,
MARTIN, MCCORMICK, MILLS, MITCHELL,
NUTTING, PERRY, RAYE, ROSEN, ROTUNDO,
SAVAGE, SCHNEIDER, SHERMAN, STRIMLING,
WESTON, THE PRESIDENT - BETH G.
EDMONDS

NAYS: Senators: COURTNEY, NASS, PLOWMAN,
SMITH, SNOWE-MELLO

ABSENT: Senators: BROMLEY, HASTINGS, SULLIVAN,
TURNER

26 Senators having voted in the affirmative and 5 Senators
having voted in the negative, with 4 Senators being absent, the
motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority
OUGHT NOT TO PASS Report, in concurrence, **PREVAILED**.

Senator **ROTUNDO** of Androscoggin was granted unanimous
consent to address the Senate off the Record.

Senator **BOWMAN** of York was granted unanimous consent to
address the Senate on the Record.

Senator **BOWMAN**: Thank you, Madame President. I'm sorry I
wasn't present when we voted. I was in an important Education
Committee meeting. Most all of our committee meetings in
Education are rather important. I wasn't present during the vote
on LD 1635, which is 'An Act to Prevent Recreational Bear
Trapping in Maine.' Had I been here, I would have strongly
argued and voted against this bill.

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

Senator **ROTUNDO** of Androscoggin was granted unanimous
consent to address the Senate off the Record.

Off Record Remarks

Senator **PLOWMAN** of Penobscot was granted unanimous
consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**,
pursuant to the Joint Order, to Tuesday, May 29, 2007, at 10:00
in the morning.