

# 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  
June 14, 2007

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

Prayer by Reverend Dr. Alice Z. Anderman of First  
Congregational Church, UCC in Waterville.

**REVEREND ANDERMAN:** Let us pray. We give You thanks,  
Devine Spirit, for this new day with all its possibilities and  
opportunities to serve You and the people of Maine. You live,  
breath, and touch us in this place. Give us strength, courage, and  
wisdom to make decisions that will build up our state and extend  
care and compassion to our people. Where there is suffering,  
discouragements, and despair, help us to respond with  
compassion. Where there is poverty, oppressions, and bondage,  
help us to respond with justice. Where there is estrangement,  
help us to respond with loving kindness. When the road seems  
long and tedious, be a pillar of fire by night and a bright light by  
day so that we can see the path that is before us, be confident of  
Your presence with us, and do the work that You have set before  
us. Transform us with Your spirit and help us to do justice, to love  
kindness, and to walk humbly with You and each other. Amen.

Reading of the Journal of Wednesday, June 13, 2007.

Doctor of the day, Rebecca Chagrasulis, MD of Otisfield.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, To Establish a Working Group To Study the  
Effectiveness and Timeliness of Early Identification and  
Intervention for Children with Hearing Loss in Maine  
(EMERGENCY)

H.P. 881 L.D. 1239  
(C "A" H-365)

In Senate, June 6, 2007, **PASSED TO BE ENGROSSED AS  
AMENDED BY COMMITTEE AMENDMENT "A" (H-365)**, in  
concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS  
AMENDED BY COMMITTEE AMENDMENT "A" (H-365) AS  
AMENDED BY HOUSE AMENDMENT "B" (H-566)** thereto, in  
**NON-CONCURRENCE**.

On motion by Senator **BRANNIGAN** of Cumberland, the Senate  
**RECEDED** and **CONCURRED**.

**Non-Concurrent Matter**

Bill "An Act To Implement the Recommendations of the  
Committee To Review the Taxation of Slot Machine Revenues,  
Created by Executive Order 33 Fiscal Year 2006-07"  
S.P. 729 L.D. 1924

In Senate, June 12, 2007, on motion by Senator **MARTIN** of  
Aroostook, **REFERRED** to the Committee on **TAXATION** and  
ordered printed.

Comes from the House, **REFERRED** to the Committee on  
**LEGAL AND VETERANS AFFAIRS** and ordered printed, in  
**NON-CONCURRENCE**.

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

**COMMUNICATIONS**

The Following Communication: S.C. 394

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

June 13, 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 State and Local Government has had under consideration the  
nomination of David R. Cheever of Augusta, for appointment as  
the State Archivist.

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:

LEGISLATIVE RECORD - SENATE, THURSDAY, JUNE 14, 2007

YEAS	Senators	2	Schneider of Penobscot, Brannigan of Cumberland
	Representatives	6	Barstow of Gorham, Beaudette of Biddeford, Curtis of Madison, Hayes of Buckfield, Schatz of Blue Hill, Sirois of Turner

NAYS	Senator	1	Benoit of Sagadahoc
	Representatives	4	Boland of Sanford, Cotta of China, Joy of Crystal, Weaver of York

ABSENT	0
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Eight members of the Committee having voted in the affirmative and five in the negative, it was the vote of the Committee that the nomination of David R. Cheever of Augusta, for appointment as the State Archivist be confirmed.

Signed,

S/Elizabeth M. Schneider  
Senate Chair

S/Christopher R. Barstow  
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: H.C. 345

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

June 13, 2007

Honorable Joy J. O'Brien  
Secretary of the Senate  
123rd Maine Legislature  
Augusta, Maine 04333

Dear Secretary O'Brien:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Protect Wild Trout from Exotic Species" (H.P. 799) (L.D. 1081).

Representative KOFFMAN of Bar Harbor  
Representative WATSON of Bath

Representative SAVIELLO of Wilton

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

The Following Communication: H.C. 344

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

June 13, 2007

Honorable Joy J. O'Brien  
Secretary of the Senate  
123rd Maine Legislature  
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on State and Local Government on Resolve, To Lower the Cost of State Government (EMERGENCY)(S.P. 338) (L.D. 1021)

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

## ORDERS

### Joint Order

On motion by Senator **MARRACHÉ** of Kennebec, the following  
Joint Order:

S.P. 732

ORDERED, the House concurring, that the Commission to Study Primary Care Medical Practice is established as follows.

1. Commission to Study Primary Care Medical Practice established. The Commission to Study Primary Care Medical Practice, referred to in this order as "the commission," is established.

2. Membership. The commission consists of the following 13 members, appointed as follows:

A. Three members of the Senate, appointed by the President of the Senate;

B. Five members of the House of Representatives, appointed by the Speaker of the House;

C. Two independent primary care physicians, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

D. One member of an organization representing hospitals in the State, appointed by the President of the Senate;

E. One member of an organization that has expertise in issues regarding the enhancement of quality of life and that provides information, advocacy and service to members of the public, including patients and consumers, appointed by the President of the Senate; and

F. One member of an organization representing physicians in the State, appointed by the Speaker of the House.

3. Commission chairs. The first-named Senator is the Senate chair of the commission and the first-named member of the House is the House chair of the commission.

4. Appointments; convening of commission. All appointments must be made no later than 30 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the commission shall call and convene the first meeting of the commission.

5. Duties. The commission shall:

A. Identify the causes of the loss of independent ownership of primary care medical practices due to financial, regulatory or business-related reasons;

B. Seek input from independent primary care physicians on payor mix, reimbursement and Medicaid regulatory changes and the effects of such factors on the ability of independent primary care physicians to practice medicine in Maine;

C. Seek to determine the effect of hospital control of primary care medical offices or primary care physicians on health care costs, access to health care and medical treatment of Maine's citizens; and

D. Review how comparable states manage physician-hospital relationships with respect to health care costs, patient advocacy and access to health care.

6. Staff assistance. The Legislative Council shall provide necessary staffing services to the commission.

7. Report. No later than December 5, 2007, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Health and Human Services. Pursuant to Joint Rule 353, the commission is not authorized to introduce

legislation. Upon receipt of the report required by this section, the Joint Standing Committee on Health and Human Services may, pursuant to Joint Rule 353, introduce a bill during the session to which the report is submitted to implement its recommendations on matters relating to the study.

**READ.**

On motion by Senator **MARTIN** of Aroostook, placed on the **SPECIAL STUDY TABLE**, pending the motion by Senator **MARRACHÉ** of Kennebec to **PASS**.

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## REPORTS OF COMMITTEES

### House

#### Ought to Pass

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Increase Access to After-school Programs"

H.P. 61 L.D. 63

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

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

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

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

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The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funding for Mentoring Programs"

H.P. 63 L.D. 65

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

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

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

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

---

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funding to the St. Francis Water District for New Wells"

H.P. 157 L.D. 186

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

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

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

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

---

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Increase the Availability of Cellular Telephone Service for Rural Residents"

H.P. 249 L.D. 305

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

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

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

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

---

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Establish a Pilot Program for Return of Unused Prescription Drugs by Mail"

H.P. 327 L.D. 411

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

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

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

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

---

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Fund the Western Maine Career Centers" (EMERGENCY)

H.P. 439 L.D. 572

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

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

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

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

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funding for Transitional Employment Training Opportunities for Persons with Mental Illness"

H.P. 506 L.D. 657

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

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

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

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

---

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Support the Maine Keeping Seniors Home Program"

H.P. 614 L.D. 817

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

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

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

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

---

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Allow the City of Auburn To Adjust the Definition of 'Original Assessed Value' for the City of Auburn's Mall Area Municipal Tax Increment Financing District and the City of Auburn's Downtown Area Municipal Tax Increment Financing District"

H.P. 1324 L.D. 1892

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

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

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

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

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**Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act To Assist Communities Affected by Base Closures"

H.P. 559 L.D. 738

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

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

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

**READ ONCE.**

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

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

---

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act Concerning the Taxation of Property Owned by Certain Nonprofit Organizations"

H.P. 947 L.D. 1338

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

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland  
NASS of York

Representatives:

PIOTTI of Unity  
CLARK of Millinocket  
HOTHAM of Dixfield  
PILON of Saco  
LANSLEY of Sabattus  
RAND of Portland  
KNIGHT of Livermore Falls  
WOODBURY of Yarmouth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-561).**

Signed:

Representatives:

CHASE of Wells  
WATSON of Bath

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

Reports **READ**.

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

---

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Support County Government"

H.P. 894 L.D. 1266

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

Signed:

Senator:

NASS of York

Representatives:

PIOTTI of Unity  
RAND of Portland  
KNIGHT of Livermore Falls  
CLARK of Millinocket  
WOODBURY of Yarmouth  
HOTHAM of Dixfield  
WATSON of Bath  
CHASE of Wells  
PILON of Saco  
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-557).**

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland

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

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

---

**Senate**

**Ought to Pass**

Senator **ROTUNDO** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Resolve, Honoring Women Veterans of Maine (EMERGENCY)

S.P. 85 L.D. 248

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

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

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

Sent down for concurrence.

---

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Provide Funds for the Coordination and Promotion of the 400th Anniversary of the Popham Colony"

S.P. 100 L.D. 318

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

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

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

Sent down for concurrence.

---

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Support the Capital Riverfront Improvement District" (EMERGENCY)

S.P. 195 L.D. 603

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

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

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

Sent down for concurrence.

---

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Promote Economic Growth through Entrepreneurship, the Creative Economy and Rural Economic Development"

S.P. 207 L.D. 670

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

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

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

Sent down for concurrence.

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Restore Funding to the Maine Joint Environmental Training Coordinating Committee"

S.P. 211 L.D. 674

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

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

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

Sent down for concurrence.

---

Senator ROTUNDO for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Fund the Fractionation Development Center"

S.P. 224 L.D. 707

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

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

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

Sent down for concurrence.

---

**Ought to Pass As Amended**

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Improve Maine's Homemaker Services Program

S.P. 606 L.D. 1699

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

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

**READ ONCE**.

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

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

Sent down for concurrence.

---

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify and Affirm the Scope of Services Available to Persons with Mental Retardation or Autism"

S.P. 707 L.D. 1907



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

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

**READ ONCE.**

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

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

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Clarify Confidentiality in Child Protective Proceedings"  
S.P. 194 L.D. 602

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-303).**

Signed:

Senators:

HOBBINS of York  
HASTINGS of Oxford

Representatives:

SIMPSON of Auburn  
BRYANT of Windham  
DUNN of Bangor  
MILLS of Farmington  
DILL of Cape Elizabeth  
CASAVANT of Biddeford  
BERUBE of Lisbon  
JACOBSEN of Waterboro  
NASS of Acton  
GOULD of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-304).**

Signed:

Senator:

NUTTING of Androscoggin

(Representative LORING of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (S-303)** Report.)

Reports **READ**.

On motion by Senator **HOBBINS** of York, **TABLED** Unassigned, pending **ACCEPTANCE OF EITHER REPORT**.

**Divided Report**

The Majority of the Committee on **LABOR** on Bill "An Act To Improve the Independent Medical Examiner System"  
S.P. 598 L.D. 1691

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  
HAMPER of Oxford  
DUPREY of Hampden  
JACKSON of Allagash  
SYKES of Harrison  
DRISCOLL 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-300).**

Signed:

Representative:

BURNS of Berwick

Reports **READ**.

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

Sent down for concurrence.

---

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Reduce Maine's Income Tax Rates by 50 Percent"  
S.P. 181 L.D. 569

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

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland

Representatives:

PIOTTI of Unity  
RAND of Portland  
CLARK of Millinocket  
WATSON of Bath  
PILON of Saco  
LANSLEY of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-298).**

Signed:

Senator:

NASS of York

Representatives:

KNIGHT of Livermore Falls  
HOTHAM of Dixfield  
CHASE of Wells

Reports **READ.**

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

---

**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Secure Maine's Transportation Future"  
S.P. 634 L.D. 1790

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-308).**

Signed:

Senators:

DAMON of Hancock  
SAVAGE of Knox

Representatives:

MARLEY of Portland  
BROWNE of Vassalboro  
FISHER of Brewer  
MAZUREK of Rockland  
HOGAN of Old Orchard Beach  
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 Not To Pass.**

Signed:

Senator:

DIAMOND of Cumberland

Representative:

THOMAS of Ripley

Reports **READ.**

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

---

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

---

**RECALLED FROM LEGISLATIVE FILES**

Bill "An Act To Eliminate the Property Tax on Business Equipment Owned by Small Retailers"  
S.P. 318 L.D. 1001

**RECALLED** from the Legislative Files pursuant to Joint Order (S.P. 730), in concurrence.

(In Senate, June 12, 2007, pursuant to Joint Rule 310.3, **PLACED IN THE LEGISLATIVE FILES.**)

On motion by Senator **MARTIN** of Aroostook, Bill and accompanying papers **RECOMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

Sent down for concurrence.

---

**RECALLED FROM LEGISLATIVE FILES**

Bill "An Act To Reduce Duplication of Paperwork for Fuel Distributors"  
S.P. 455 L.D. 1307

**RECALLED** from the Legislative Files pursuant to Joint Order (S.P. 730), in concurrence.

(In Senate, June 12, 2007, pursuant to Joint Rule 310.3, **PLACED IN THE LEGISLATIVE FILES.**)

On motion by Senator **MARTIN** of Aroostook, Bill and accompanying papers **RECOMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE.**

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Animal Welfare Laws" H.P. 1137 L.D. 1615

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-567)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-567)**.

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

**READ ONCE.**

Committee Amendment "A" (H-567) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002" (EMERGENCY)

H.P. 1229 L.D. 1763

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-569)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-569)**.

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

**READ ONCE.**

Committee Amendment "A" (H-569) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Clarify Election Laws Concerning Election Clerks' Qualifications" (EMERGENCY)

H.P. 29 L.D. 27

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-568)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568)**.

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

**READ ONCE.**

Committee Amendment "A" (H-568) **READ** and **ADOPTED**, in concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act To Protect Small Woodland Owners"

H.P. 557 L.D. 736

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-577)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-577)**.

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

**READ ONCE.**

Committee Amendment "A" (H-577) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act To Return a Portion of Sales, Lodging and Meals Taxes to Municipalities"

H.P. 918 L.D. 1300

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-576)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)**.

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

**READ ONCE.**

Committee Amendment "A" (H-576) **READ**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-576), in concurrence.

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The Committee on **TAXATION** on Resolve, To Provide Information to Maine Citizens Regarding Maine's Tax Laws  
H.P. 970 L.D. 1378

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-571)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-571)**.

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

**READ ONCE.**

Committee Amendment "A" (H-571) **READ** and **ADOPTED**, in concurrence.

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

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Off Record Remarks

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

#### **REPORTS OF COMMITTEES**

##### **Senate**

##### **Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Laws Regarding the Conveyance of Manufactured Housing"

S.P. 602 L.D. 1695

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

Signed:

Senator:

HOBBINS of York

Representatives:

SIMPSON of Auburn  
BRYANT of Windham  
DUNN of Bangor  
MILLS of Farmington  
DILL of Cape Elizabeth  
CASAVANT of Biddeford  
BERUBE of Lisbon  
JACOBSEN of Waterboro  
NASS of Acton  
GOULD of South Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-310)**.

Signed:

Senators:

NUTTING of Androscoggin  
HASTINGS of Oxford

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

Reports **READ**.

On motion by Senator **HOBBINS** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**

Sent down for concurrence.

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

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

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

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On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 10:30 in the morning.

After Recess

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. 395

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL  
AFFAIRS**

June 13, 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 Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 59      An Act To Restore Continuing Funding for the Maine Institute for Public Safety Innovation
- L.D. 64      An Act To Recapitalize the Maine Downtown Center
- L.D. 93      An Act To Appropriate Funds from the General Fund to the Maine Correctional Center
- L.D. 187     An Act To Increase Access to Child Care and Early Education for Maine's Working Families
- L.D. 190     An Act To Fund Business Attraction Efforts
- L.D. 194     An Act To Establish More Probation Officer Positions in the Department of Corrections for Better Oversight of Sex Offenders
- L.D. 244     An Act To Provide Additional Funding for the Office of Substance Abuse
- L.D. 291     An Act To Expand Workforce Development Programs
- L.D. 374     An Act To Provide Funding for the Maine-Canada Trade Ombudsman
- L.D. 501     An Act To Provide Relief to the Commuters on Casco Bay Islands
- L.D. 611     An Act To Generate Entrepreneurship, Small Business Development and Employment among Women and Rural Residents through Training and Technical Support

- L.D. 647     An Act To Encourage Economic Development
- L.D. 745     An Act To Expand the Maine Economic Improvement Fund
- L.D. 818     An Act To Provide Support for the Volunteer Medical Ride Network
- L.D. 819     An Act To Provide Supplemental Funding for Mileage Reimbursement for Volunteers for Meals on Wheels Programs (EMERGENCY)
- L.D. 862     An Act To Improve Health Care for Maine Children through the Expansion of School-based Health Care Centers
- L.D. 926     An Act To Support the Marine Law Institute
- L.D. 1114    An Act To Appropriate Funds for the School Breakfast Program
- L.D. 1134    An Act To Ensure Access to the Community College for Students in Maine
- L.D. 1224    An Act To Prevent Violence against Maine Families and To Provide Adequate Intervention in Cases of Domestic Violence and Sexual Assault
- L.D. 1279    An Act To Terminate the Authority of the Maine Governmental Facilities Authority

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

Sincerely,

S/Sen. Margaret Rotundo  
Senate Chair

S/Rep. Jeremy Fischer  
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**

**House**

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide Information to Property Tax Payers"  
H.P. 837 L.D. 1144

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-570).**

Signed:

Senators:

PERRY of Penobscot  
STRIMLING of Cumberland  
NASS of York

Representatives:

PIOTTI of Unity  
RAND of Portland  
KNIGHT of Livermore Falls  
WOODBURY of Yarmouth  
HOTHAM of Dixfield  
WATSON of Bath  
CHASE of Wells  
PILON of Saco  
LANSLEY of Sabattus

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

Signed:

Representative:

CLARK of Millinocket

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-570).**

Reports **READ.**

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

**READ ONCE.**

Committee Amendment "A" (H-570) **READ** and **ADOPTED**, in concurrence.

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

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### ORDERS OF THE DAY

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

**NOMINATION** - of David R. Cheever of Augusta, for appointment as the State Archivist

Tabled - June 14, 2007, by Senator **MITCHELL** of Kennebec

Pending - **CONSIDERATION**

(In Senate, June 14, 2007, Communication (S.C. 394) from the Committee on **STATE AND LOCAL GOVERNMENT, READ** and **ORDERED PLACED ON FILE.**)

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Benoit.

Senator **BENOIT:** Thank you, Madame President. I just would like to speak briefly on this and explain the reason why I chose to not support the nominee. Mr. Henderson was asked to put together a list of requirements for the position of Maine State Archivist and I would like to just quickly read a couple of the requirements. Experience in State Government administration and in an organization involving the preservation or access to historical records; a Bachelors degree in History, Political Science, Public Administration, or a related field; Masters degree in History, Political Science, Public Administration, or a related field; experience in government archival and record management work, including supervisory experience; and an advanced degree in Archival Studies, Library Science, or American History. The candidate did not have any of those requirements. That is why I chose to not support the candidate. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President and distinguished colleagues in the Senate. I rise in support of the nomination of Mr. Cheever for State Archivist. It is interesting to note that this particular nomination, in the past, has been controversial, and in fact, the retiring State Archivist, Mr. Henderson, also came under scrutiny for his lack of a resume for this particular position. I think what's interesting here is that I have heard no one come to me and say that Mr. Henderson has not done an outstanding job in this particular position. When we vetted this particular candidate we looked at his complete resume. His abilities seemed to be very much adept towards working not only with those who are in the field but also with this Body and that of the other chamber. I think his experience will speak to his abilities. He is an outstanding candidate and I hope that you will support this nomination of Mr. David Cheever. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. In looking over Mr. Cheever's work history I understand that Mr. Cheever used to be an editorial page editor for a Central Maine newspaper. When Mr. Cheever allowed a guest column to be printed which questioned the wisdom of allowing Somali refugees to live in Lewiston, Maine, he was fired by his editor and was told that he had used exceedingly poor judgment in his job and his exceedingly poor judgment was so poor that it cost him his livelihood at that job. I don't think we can take the risk that someone with exceedingly poor judgment should be in charge of saving items that are no other place, exist nowhere else, and need the care and treatment that would come from someone who is fully trained and ready to start on day one. There are many positions where a learning curve is appropriate and acceptable, but we are talking about losing our treasures while someone learned on the job. I'm not sure that this is a gamble that the

State of Maine should be taking. We are entrusted with these documents. It's our job to hire the most qualified person to ensure that they are there for our children and grandchildren and generations to come. I don't think someone who's lost their job for exceedingly poor judgment fits that bill. I would ask you to think beyond today and think of the generations to come, who will be hoping that they can find, recall, study, use, and appreciate the documents that are in our trust. Thank you.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#140)**

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, and 17 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 R. Cheever** of Augusta, for appointment as the State Archivist 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 David R. Cheever of Augusta. Would he please rise and accept the greetings of the Maine Senate.

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The Chair laid before the Senate the following Tabled and Later (6/6/07) Assigned matter:

HOUSE REPORTS -from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Enact the Informed Growth Act"

H.P. 1262 L.D. 1810

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-355)** (9 members)

Report "B" - **Ought Not to Pass** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-356)** (1 member)

Tabled - June 6, 2007, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**, in concurrence

(In House, June 4, 2007, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355) AND HOUSE AMENDMENT "A" (H-383)**.)

(In Senate, June 6, 2007, Reports **READ**.)

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. The motivation behind this bill is admirable. Those of us who love downtowns and love our small businesses might look at this as a remedy to their problems. However, what we would give up if we were to pass this bill far out ways what we might gain. There are actually five amendments being prepared to clarify what this bill intends to do. You have them all on your desk. The idea is a good one to preserve our downtowns and support our small businesses. It doesn't get to that. Instead it sends a message to people that are looking at Maine that we are going to add another hurdle in front of them before they can bring their company here. Currently we are in negotiations with a small plastic manufacturer who's interested in coming to Maine. They basically said to us, 'Give me a call after this bill makes its way through the Legislature.' For fear of the slippery slope, this small manufacturer is making the decision to come to Maine based on what this bill does. You may think that is hyperbole but it isn't. I would urge you to continue your concern for small business, that's what brought me to the legislature; to continue your concern for small towns, that's what I love and why I live in Maine; but this bill is not that. We will be giving up a lot more than we'll be gaining with this bill and I urge you to oppose the pending motion.

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

Senator **ROSEN:** Thank you, Madame President and Senate colleagues. I also urge you to oppose the pending motion. In the reading of this bill as in its amended form it actually, in a peculiar way, targeted the area of planning and providing information. As it appears to me, it only applies to retailers over a certain square footage selling merchandise. Goods have been removed, as far as I can see, from the definition. Even though we are in an economy of goods and services, services is not included. First of all, it only applies to retailers, no one else. It's a retailer over a certain square footage. It's a retailer that sells merchandise, not services. I'm trying to understand what the advocates are trying to get at. If it's to protect and preserve the integrity of the village

center and the downtown and the small community there are so many other forces out there that are dynamic and that are impacting the design and the use of how we spread out across the state of Maine. You have a small downtown, locally owned, movie theater and there is a proposal to build a big megaplex outside of town, as far as I can tell from the way this bill reads, that proposal doesn't come under this provision. The car dealerships that want to line up on one road outside of town, that's not part of this. You have your small in-town community church, or your large cathedral or church in town, and a congregation wants to build a major facility outside of town, paved ten acres or whatever, that's not part of this. If we're looking at growth patterns, impact on retail, or people's lifestyles, that's not part of this conversation. It seems to be unduly narrow, very targeted, unfair, and at the end of the day I'm not sure if it even has the capacity and the ability, as drafted, to accommodate or to accomplish what the supporters seek to see happen. I think it places a burden on communities. I think it's unfairly applied and would strongly suggest that you oppose the pending motion.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I rise in support of the pending motion on the floor. Government, whether local, state or federal, makes good decisions when they have good data. This bill provides good information to help us to make good decisions. It also creates greater transparency for the public and helps them to understand what's happening in their communities. In reading over the information that supporters of this bill have distributed I was particularly impressed by the number of small businesses from across the state that have signed on to this bill. While some might say that this bill is not good for business, the business owners in communities across the state, over 170 of them, are delivering another message to us. They want us to pass this bill because it will help them to grow our economy. I urge you to support L.D. 1810. Thank you.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I do support this bill and I support it for the following reasons. Putting everything aside, this bill has to do with Maine people and the Maine way of life. As I have said to the people who wrote this bill from the beginning, I don't mind going to the service centers to do some of the shopping that I do at the big stores. My district is all rural, all of it. I have one town in particular that is the economic hub of Lincoln County. They made the choice about rejecting a large store coming to town because they felt that it could destroy the entire downtown area, which is where the businesses are located in this one economic town. I feel they were right and the decision that they made was right for them. This bill gives another tool to all the communities that don't have the planning in place and will not have the planning in place because they are too small, they can't afford it, or they don't have the expertise to do it. This will give them one more tool to evaluate not the business opportunities but to evaluate the Maine way of life as we know it. Do we want to change every four-corner rural area into a major shopping complex? I'm perfectly happy to drive to the big service centers

to do what I need to do. If I want to go to one of the large stores, I'm happy to go to Augusta, to Portland, to Brunswick, to Bangor, or to Waterville, where these places already exist and where you would expect to find them. I don't look forward to having them in rural Maine, all over the place. I don't think it's good economics. It promotes one type of business growth at the expense of another. I'm not going to stand up here and say I'm an expert as to which type is best. I still enjoy going in the smaller shops and stores and having conversations with people that I know or recognize. These people that have spent their lifetime, half a lifetime, or a few years trying to build up a new business are the ones that could be placed at jeopardy. I'm not willing to risk that big a change in the Maine way of life. I think that's what this bill is all about, economics aside. I think this bill is about Maine, how it looks now and how it will look in the future, and what it is that makes Maine attractive. What kind of businesses and people are we trying to attract to Maine? That's what I think this bill is about. Therefore I will be supporting this bill. Thank you, Madame President.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. Before we vote on this bill, the question, 'What kind of business do we want to attract?' is an open question because we are not stating that, affirmatively, as a state. We are simply putting bill after bill after bill on the books saying what we don't want. That's what this bill says. It says what we don't want. It also requires an economic impact analysis. Flipping through the bill, I think it is a \$40,000 economic analysis. That assumes that it is value neutral information. It isn't. Economics isn't a hard science. We're basically saying to businesses that are interested in locating to Maine, this bill says a retail of 75,000 square feet but we all know how that goes because the next session the slippery slope will extend it to others I'm sure, is that we're going to slow them down until they do a study that shows what the economic impact is on the area. If that information could be value neutral and if that information really was going to be helpful to preserving downtowns and changing our mix of economic development, I'd be voting for it. As I drove up I-95 this morning and got off at the Augusta exit, I see that God awful, sorry if there is anybody in this room that has a emotional or financial attachment to it, development on the side just as I turn off. We all know that those are going to continue with this bill. This bill isn't going to stop those. The people that are going to support big retail projects like that are going to be able to fund these studies and at least the results would be ambiguous. We all know that. What might be stopped is a little plastics manufacturer who's paying too much in Massachusetts, who wants to keep his headquarters down there but wants to put his manufacturing up here because he likes his workforce, and quite frankly, our property taxes are less. He's going to wait until he hears how we vote on this bill because he wonders what might be coming next. If we could stop Wal-Mart, and let's just say it because we all know that's what it's about, I'd vote for this. You know what? We won't, but we're going to stop other stuff.

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



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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. When I thought about this bill and was lobbied by people in my district on both sides of this issue, I ended up deciding to support the pending motion. When I think of big box stores, so to speak, I like to think of it in the following way; from away and going away. The products they sell are from away and the profit made goes away to somewhere else. The economic multiplier effect of a big box store compared to a local Maine business is a huge difference. I'm, frankly, pleased but a little surprised at the list of small business owners, some from my district, that are supporting this bill. I remember when a big box store went in a little bit north of me in the Farmington area. Pretty soon there were a lot of small businesses in the area, where people had worked their lives at, that were no longer there. I think we also need to look at what's going to help our economy grow the best. To me it's helping small businesses not the larger business.

I very rarely ever shopped at a very large store. I will admit that with a family member of mine, and with my approval, we did end up purchasing a very large ventilating fan for our farm at one of these establishments two years ago. It's a fan that is 4-1/2' across. It moves a tremendous amount of air on a hot day. That's very important to a farm. Unfortunately, within two weeks of when we purchased that fan, which was not manufactured in this country, the switch went. I thought I had got a good deal on that fan. Then the motor went. Then the belt went. Now it's sitting there broken. The pulley on the drive shaft totally disintegrated. I've already put twice as much money into that fan than I paid for it in the first place. To me, that serves me right. It was cheap. It was not quality. It was manufactured from away and about 90% of the profit that they made in selling that fan to me has ended up a long ways away from here. It has done nothing for our economy other than what I've had to pump into the local economy, to the local craftsmen, to keep fixing the darned thing.

I think this is a very important signal we're going to send to the small business community in Maine by supporting the motion before us right now. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. There are a couple of things I'd like to have you consider before you vote on this matter and I am opposed to the motion before us. First of all, most of our communities, whether they are service center communities or rural communities, are actively courting the very businesses that this bill seeks to restrain. If a community desires to do what this bill suggests they are perfectly free to enact local legislation to their ordinances to accomplish what this bill seeks doing on a statewide basis. They have a well-structured organization called MMA that can build model legislation for them and they can adopt it as they see fit, should they see fit. They don't need a one size fits all emanating from this chamber.

Let's talk about competition. It's a dastardly thing, competition. It forces you to be good or better than the people you compete with in order to survive. If you are a big box store you compete on one thing, a large parking lot with lots of space

and price. The good Senator from Androscoggin, Senator Nutting, has pointed out that service is not necessarily their forte nor has it ever been. I happen to represent several communities in Cumberland County, one of them being Falmouth. In Falmouth you will find a Wal-Mart. Not 300 yards away is a former Ethan Allen's structure that now holds a half a dozen small businesses. If you go up the street, past the streetlight that is 100 yards away, there are the Falmouth shops of Falmouth village. Dozens of small shops thriving on Route 1, within throwing distance of a Wal-Mart. Trust me, they are not competing on price. They are competing on service and knowledge and understanding of their clientele and being responsive to the needs of their customers; just what you would expect any good business enterprise to do. Whether you are from Freeport, as our good President is, or you're from Portland as the Senator from Cumberland, Senator Strimling, is, or Windham as the Senator from Cumberland, Senator Diamond, is, you have communities who have actively courted these businesses and will continue to do so until they decide that they don't fit in their strategy from an economic development standpoint. Then they are free to change their ordinances or to order economic studies to better understand the economic balances of development as it comes into their communities. I suggest to you that our service center communities already have that capacity today and can exercise it, if they are not already exercising it, through their planning departments. Again, I think this bill deserves a strong ought not to pass on your part. Thank you very much, Madame President.

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

Senator **MILLS:** Thank you, Madame President and fellow members of the Senate. I have to admit, it's very hard to protect some of our communities from themselves. I think a book should be written about the follies of municipal government. I hate to mention some of them by name but the one that pops up is right near to me. This is a book that needs to be written. It's about Waterville. It begins, at least in my memory, in 1956 when they paved half of downtown in response to the overtures of urban renewal under the Eisenhower administration. Over time that didn't work out so well so they began offering TIFs, first at one I-95 exit and then at another, and began inducing large retailers to come to town. In both of the major interchanges near the highway entrances they actually gave tax concessions, very substantial tax concessions, to induce large-scale retail development at those locations. Then a few years later they looked around and realized that the urban renewed downtown had totally evaporated. Sterns was gone. The stores were all gone. Somehow downtown had emptied. We had a bill here a few years ago to create a TIF for downtowns because all of the TIF capacity of Waterville had been burned up in giving it away to the developers who were interested in bringing in these big box retail stores. I think part of this is a rather futile effort to compete with Augusta, which you have observed in your travels is clearly winning this battle between the cities. It's a shame that they couldn't get together on some of these things. In any case, I want to start by conceding that it's almost impossible to protect some of these municipalities from themselves. On the other hand there are the places like Skowhegan, places that I am more familiar with, where they won't do anything to protect themselves. We used to have a K-Mart, we had a Woolworth's. We had the last surviving Woolworth's in the free world, I think. There were two

major shopping stores. Then came Wal-Mart. Instead of going to a shopping center, like they very kindly did in Falmouth, they got themselves as far away from everybody else as they possibly could get so that they wouldn't have to compete, wouldn't have to lose business to somebody that might offer a modicum of service, wound up paving an enormous tract of real estate that had previously been quite attractive, and left, by the way, the failure of Woolworth's, K-Mart, and the other stores. We've got lots of paving and non-point source run off in Skowhegan if you are interested in observing that phenomenon. We're practically a textbook case of it.

I don't know. I think these are very sophisticated issues. It does seem to me that our towns, particularly our smaller ones, do need some sort of stop gap measure that will enable them to say, 'Alright, let's get a study done before you come ramming on through.' I happen to think that this ought to be an option of the town. I think it ought to be something that the town deliberately has to opt out on, not opt in. I think that this is a valuable service that we can render to our towns by affording them a fairly sophisticated planning tool, if they care to use it, and I think it would prove useful in some instances. We do have what we are seeing in our state today, I think the Brooking's Report brings it home with great force, and that is the helter-skelter irrational paving of most of our towns and to what it has all led to. Some very unattractive and unproductive development trends that go way beyond the cosmetic impact, I hasten to say, and have had a devastating economic impact on many of our towns. I support the pending motion. I believe we're going to have an extended morning on the subject of amendments and so I'll sit down and wait until that happens.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-355). 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 (#141)

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

**NAYS:** Senators: BROMLEY, COURTNEY, DIAMOND, HASTINGS, MCCORMICK, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355)**, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-355) **READ**.

On motion by Senator **COURTNEY** of York, Senate Amendment "A" (S-235) to Committee Amendment "A" (H-355) **READ**.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I wish to offer this amendment as a friendly amendment. I think that one of the things we heard earlier is that one size really doesn't fit all. In my community one of the things that we've done is embraced retail, we've embraced big box retail. It isn't only Wal-Mart, it's Lowe's, it's Home Depot. Some of those are actually pretty good jobs. We've embraced that and one of the things that we've done in our community to try to help our downtown along is we've started to set up a structure where we can take some of the benefits of that development and put it into our downtowns. This amendment very simply allows you to opt in if you decide that you need this and in addition it would remove the requirement for the \$40,000 fee because I do believe that this is an impediment for some of the economic development and the message that we are trying to send around the state that we need some of these companies for our future economic development and our job growth. Thank you, Madame President.

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-235) to Committee Amendment "A" (H-355).

On motion by Senator **COURTNEY** of York, 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. I just have a question for anyone who might care to answer concerning the pending motion and the pending amendment. Is this fairly regarded as what we might call an opt in provision to be added to the bill? I haven't a chance to read it.

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

Senator **COURTNEY:** Thank you, Madame President. Yes, it is the opt in provision that would permit a municipality to do this is they want to but it wouldn't require that they have to. It would address the concerns on the other side and I think that it's a good compromise. I hope that you will support it. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. This would completely gut the bill and I think in order for us to move

forward with additional amendments I hope that you will vote in opposition to this amendment. Thank you.

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

Senator **MILLS:** Thank you, Madame President. I think the intent of the bill, as crafted, is to make sure that communities are, in a sense, forced, but in a nice way, to examine the application and to take advantage of the study opportunity that the bill presents. My guess is that if it's an opt in provision that the bill would, indeed, lose most of its impact, force, or effectiveness. For that reason I will reluctantly disagree with my friend from York County and vote in favor of the pending motion. I think there are other ways of addressing options at the community level but to relegate the bill simply to an opt in or to make a choice because in a sense they already have an opt in because they could, if they choose, enact some sort of a zoning or planning ordinance that might address the issues presented by the bill. I, indeed, believe that Westbrook and a few other towns have, perhaps, done so. In any case, I will be voting in favor of the pending motion because I don't think that it complies with the spirit of the original bill.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. Very briefly, I would just differ that this amendment strips the bill. I think what it does is stress local control and home rule. It allows local people to make that decision and I think when they are looking down the street and something is going on in their neighborhood, that's where the decision ought to be made. It shouldn't be made up here. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "A" (S-235) to Committee Amendment "A" (H-355). 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 (#142)**

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

NAYS: Senators: BROMLEY, COURTNEY, DIAMOND, GOOLEY, HASTINGS, MCCORMICK, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-235) to Committee Amendment "A" (H-355), **PREVAILED**.

Committee Amendment "A" (H-355) **ADOPTED**, in concurrence.

House Amendment "A" (H-383) **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-236) to House Amendment "A" (H-383) **READ**.

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

Senator **SCHNEIDER:** Thank you, Madame President. I just wish to speak to my motion on this. We have an amendment that was put on in the House which does allow an opt out if communities have put a provision into their ordinances regarding an impact study of this type of review criteria for large scale retail development. This Senate Amendment to the House Amendment goes on to clarify that opt out provision and states that after this bill is passed, and if a community should adopt an economic impact review criteria of their own, they may be exempt from the provisions of this informed growth act. This allows for an opt out. I just wanted to make sure that my colleagues are aware of this clarification and I hope they will support this Senate Amendment. Thank you.

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

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

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

Senator **SHERMAN:** Thank you, Madame President. I question the construction of what must be done locally. They are going to adopt economic community impact review criteria. Who's going to review that criteria?

**THE PRESIDENT:** The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-236) to House Amendment "A" (H-383) **ADOPTED**.

House Amendment "A" (H-383) as Amended by Senate Amendment "A" (S-236) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-291) **READ**.

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

Senator **MILLS**: Thank you, Madame President, men and women of the Senate. This is a single sentence amendment that simply says, by vote of its Legislative Body, a municipality may waive its right to apply the provisions of this sub-chapter, which is the bill, to an application for a land use permit. I am considering this because I was very concerned that if a town were going to opt out from the provisions that are created by this bill that it do so in a very solemn way. I wanted to avoid the idea that just the municipal officers, for example, two out of three selectmen on a Monday night, might be able to grant a waiver to the applicant. I wanted it to be the Legislative Body of the community and by that we mean a town meeting in those towns that govern themselves that way or by duly elected city council under city charter. What this amendment would do, if you add it to the bill, is give communities the choice to opt out where they so chose but they have to do it deliberately and they have to do it through the Legislative Body. To be candid with you, a major concern about putting this amendment on was that it might create a mandate. I had interminable discussions with the good people on the second floor about whether adding a pathway through a bill that already has a paid for mandate but adding an option to it could possibly add a mandate to it. I'll leave that to wiser heads than mine. If you adopt this please know that it does put a State mandate on the bill without the preamble requiring a 2/3 vote. The salvation is in the second floor's use, when I say the second floor I mean OFPR, which is my favorite location on the second floor. They were kind enough to apply the term insignificant to the cost. I think what happens, if you adopt this, is that the Chair of the Appropriations Committee will probably be forced to send it down to the table and when it gets there, I assume, it will be funded with what we might call an insignificant amount of money. If it's truly insignificant I will personally contribute the money. I reserve the judgment to determine how insignificant. I assume that this would come back off the table without any harm done except for the delay in getting it enacted, for which I apologize to the sponsors because, as you may have gathered, I favor the bill. I'm hesitant to interrupt its progress, but I do believe that some of the more sophisticated communities like South Portland, for example, would have their city councils waive the application fee and move on. If there is any city in New England that knows how to manage large-scale retail development to its own liking they are the poster child. I think you could add in some of the smaller communities like Presque Isle, Augusta, or Lewiston/Auburn. They know how to do this stuff. We don't need to be telling them how to do it from Augusta. I assume their city councils would waive the application fee and move on. In any case, I think it's appropriate to have some kind of an opt out mechanism but I also think it is valuable to force our towns and cities to rub their noses in, if you pardon that expression, making the point that they need to consider carefully the impact of any such land use application from a large retailer and that they will at least have the tools of the State Planning Office and some resources from the State available to them to plan accordingly. With that, I offer the amendment and ask for your support.

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

Senator **SCHNEIDER**: Thank you, Madame President. Although I do enjoy hearing my good Senate colleague from Somerset, Senator Mills, speak, I do want the Senate to know that we

worked very hard to structure this bill so that it would not end up with a mandate. I hope that you will support my motion, which is to indefinitely postpone this amendment. Thank you.

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291).

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

Senator **ROSEN**: Thank you, Madame President and Senate colleagues. In some of the useful conversations that I had with folks who are passionately in support of the bill, when we talked about this opportunity for communities to weigh in and have a voice and I asked, 'Why do you oppose that?' the response was, 'Because they just won't.' Well, maybe they just will if they are given the option. I think we ought to defeat the pending motion and allow this amendment to be attached to the committee amendment.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. In all due respect, the amendment may well be a good idea. I do want to point out that the Appropriations Committee has no authority under the Constitution to decide whether a mandate goes on or doesn't go on. The fact that this is going to require a mandate means this bill would be coming back with a requirement for a 2/3 vote in order to be passed by this Body in order to move on to the Governor. If, in fact, there is not sufficient support for 2/3 this bill would die.

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. If I may reply to the latest sally. It does not have a preamble. This bill does not have a mandate preamble on it. It has a fiscal note. That was why I was referring to the work of the Appropriations Committee. It seems to me that the burden of the Appropriations Committee is to fund it or not fund it. If it is insignificant then I trust that this bill will find its way back to the floor. I am not proposing that we put a mandate preamble on the bill. That's not my purpose. Indeed, it does not have one.

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

Senator **TURNER**: Thank you, Madame President and ladies and gentlemen of the Senate. Since it is an insignificant amount of money, I'm willing to underwrite half of the requirement assuming that the good Senator from Somerset, Senator Mills, underwrites the other half. Thank you.

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

Senator **SULLIVAN**: Thank you, Madame President. Could we just put this in non-lawyer form? If in the end I would like to have L.D. 1810 pass with an option for a community to opt out if they already have what they need, what do I need to do? I've heard 2/3. I'm confused.

**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 Somerset, Senator Mills.

Senator **MILLS**: Thank you, Madame President. If I may offer an answer. I think the quick answer is rather than to resolve this very interesting dispute on the floor of the Senate it goes to the table, which is where I think it must go if this amendment is adopted. If it is determined, solemnly and quietly, that it does impede the bill without a 2/3 vote the committee can always send it back to the floor with an amendment taking this language out. You can have that option to have this option created later. If that is indeed the case, and the good Senator from Aroostook, Senator Martin, is correct, it is very difficult to resolve those issues on the floor of the Senate. I'd rather think the good Senator from Cumberland, Senator Turner, and I have it right. I'm happy to discuss that later. In any case, it's not the end of the day. This particular language, if it truly jeopardizes the fate of the bill, I will not support it.

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

Senator **SCHNEIDER**: Thank you, Madame President. Just very briefly to not belabor this. Follow my light. Thank you.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. I don't want to prolong this debate, but if a municipality were to call for a town meeting to be held on the question and it is not funded it would be a mandate.

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

Senator **BROMLEY**: Thank you, Madame President. In response to the Senator from York, Senator Sullivan's question, currently communities may not opt out even with the amendment put on in the other Body unless they already have an ordinance that goes to economic impact. Our analysis of communities, including my own of South Portland that has a rather robust economic development department, we could find no municipalities that had these ordinances done. So unless a municipality will take a step to enact an ordinance they may not opt out.

**THE PRESIDENT**: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "A" (S-291). 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 (#143)**

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291), **PREVAILED**.

On motion by Senator **BROMLEY** of Cumberland, the Senate **RECONSIDERED** whereby it **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291).

On motion by Senator **MILLS** of Somerset, **TABLED** until Later in Today's Session, pending the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291).

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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The Chair laid before the Senate the following Tabled and Later (6/11/07) Assigned matter:

Bill "An Act To Protect Consumers from Rising Health Care Costs"

S.P. 664 L.D. 1849

Tabled - June 11, 2007, by Senator **BRANNIGAN** of Cumberland

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-237)**

(In Senate, June 11, 2007, Committee Amendment "A" (S-237) **READ**.)

Committee Amendment "A" (S-237) **ADOPTED**.

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

Sent down for concurrence.

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

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

Bill "An Act To Enact the Informed Growth Act"  
H.P. 1262 L.D. 1810

Tabled - June 14, 2007, by Senator **MILLS** of Somerset

Pending - motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291)

(In House, June 4, 2007, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355) AND HOUSE AMENDMENT "A" (H-383).**)

(In Senate, June 6, 2007, Reports **READ**.)

(In Senate, June 14, 2007, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-355), ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-355) **READ**. On motion by Senator **COURTNEY** of York, Senate Amendment "A" (S-235) to Committee Amendment "A" (H-355) **READ**. On motion by Senator **SCHNEIDER** of Penobscot, **INDEFINITELY POSTPONED**. Committee Amendment "A" (H-355) **ADOPTED**, in concurrence. House Amendment "A" (H-383) **READ**. On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-236) to House Amendment "A" (H-383) **READ** and **ADOPTED**. House Amendment "A" (H-383) as Amended by Senate Amendment "A" (S-236) thereto, **ADOPTED**, in **NON-CONCURRENCE**. **RULES SUSPENDED. READ A SECOND TIME**. On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-291) **READ**. On motion by Senator **SCHNEIDER** of Penobscot, **INDEFINITELY POSTPONED**. Subsequently, on motion by Senator **BROMLEY** of Cumberland, **RECONSIDERED**.)

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. This is exactly why we have the motion to reconsider. Sometimes we foul up. I did in the first instance by voting the wrong way and then switching. I think other people were confused, as was I. In any case, we're back to a point where, if I understand things, if you favor the amendment, the opt out option or provision, the correct vote will be red or no on the indefinite postponement motion so we might go on to adopt it. I am, at least personally, convinced at the moment that the amendment does not kill the bill and does not seriously jeopardize the bill in any way. I'd be glad to explain that to anybody that

would like to talk with me about it. In any case, I'm urging people to vote red at the moment and I will try to do the same this time.

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

Senator **SCHNEIDER:** Thank you, Madame President. I still urge those in support of this bill to vote with me and vote green, which is to indefinitely postpone this amendment. Thank you.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "A" (S-291). 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 (#144)

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

**NAYS:** Senators: **BARTLETT, BROMLEY, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON**

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-291), **FAILED**.

Senate Amendment "A" (S-291) **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-355); HOUSE AMENDMENT "A" (H-383) AS AMENDED BY SENATE AMENDMENT "A" (S-236) thereto; AND SENATE AMENDMENT "A" (S-291), in NON-CONCURRENCE.**

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 1:30 in the afternoon.

After Recess

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Incorporate Binding Arbitration for Monetary Issues in Collective Bargaining for All State, County and Municipal Employees"

S.P. 257 L.D. 814

In Senate, June 12, 2007, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268)**, in **NON-CONCURRENCE**.

Senator **MARTIN** of Aroostook moved the Senate **INSIST**.

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Senate at Ease.

Senate called to order by the President.

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Senator **STRIMLING** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

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

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**. (Roll Call Ordered)

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator BARTLETT for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Encourage Wind Energy Development"

S.P. 351 L.D. 1099

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-313)**.

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

**READ ONCE**.

Committee Amendment "A" (S-313) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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Senator BARTLETT for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Incorporate the Greater Augusta Utility District"

S.P. 621 L.D. 1754

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

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

**READ ONCE**.

Committee Amendment "A" (S-314) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

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**ORDERS OF THE DAY**

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Clarify Confidentiality in Child Protective Proceedings"  
S.P. 194 L.D. 602

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-303)** (12 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-304)** (1 member)

Tabled - June 14, 2007, by Senator **HOBBS** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 14, 2007, Reports **READ**.)

Senator **HOBBS** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)** Report.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. It is an extremely rare case where on my so-called second committee I would feel strong enough about an issue to take out a report by myself. Ladies and gentlemen of the Senate, this is one of those times. L.D. 602 deals with that very first court hearing after children have been removed by the Department of Health and Human Services from their parents. The thing that has concerned me for a number of years is that under current statute at that very first hearing after children have been removed from their parents by the State that the Assistant Attorney General can come into that hearing, and with no reasons given, can object to anyone the parents bring in to support their position and they are removed from the courtroom. You have at that first hearing the State and their attorney, the Department of Health and Human Services experts, and on the other side you've got the parents all by themselves. I've heard of cases, had one in my own Senate district, where they had an attorney, they had a couple of other character witnesses that wanted to testify, and they removed, as I said, with no reason given. If they object, they are out of the courtroom. What happens, which shouldn't be any surprise, is that the State wins 100% of those first court hearings. We've had a case in my district in which I'm glad to report, though somewhat sadly, that the State Supreme Court just reversed one of these cases where children were taken away from their parents. The children were found and proven in court to have been abused in foster care. Finally the case is now going to be retried again before a higher court. In that very first hearing the parents were not even given the opportunity to present any character witnesses because, as I have said, once they are objected to they are removed from the courtroom with no reason given. In my amendment, S-304, it does at least say that the objection must have a reason and the judge makes the decision as to whether or not people who are there to support the parents as character witnesses are allowed to stay. There has to be a reason given why their presence is objected to and the judge ends up making the decision. I am trying to just instill some level of completeness, fairness, and balance to this very first hearing after children are taken from their parents by the State.

Senator **NUTTING** of Androscoggin requested a Division.

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

Senator **PLOWMAN:** Thank you, Madame President. First of all, the bill is a good bill and either report corrects a problem that we came up with in last session when a constituent could not come to you and show you documentation from the Department of Human Services regarding the taking of their children and that

they had committed a Class C crime. This is not appropriate; you should be able to ask for redress from your government and you certainly can't do that without involving your legislator. The first part of the bill seeks to do that. The second part of the bill is just what the Senator from Androscoggin, Senator Nutting, spoke of. At this point in the hearing, if one party objects to any person coming into the courtroom then no one can come into the courtroom. I actually sat in chambers with a judge one day and the attorneys for both parents, the guardian ad litem, and everyone involved but the Attorney General said that it would be fine if I sat in to observe what was going to happen in this case. The Attorney General gets to say the word object and doesn't have to say anything else and no one gets to go in. No one gets to go in; Legislator, supportive person, someone to hold your hand, or an extra pair of ears to make sure that things were heard correctly. This puts the power in the judge's hands to say, 'I can accept objects. I'll hear the objects and then I'll make my ruling.' The judge has no way, even at this point, to make a ruling. That's the Minority Report that was brought out by the Senator from Androscoggin, Senator Nutting. I did go to the committee and work to get what I thought we would be able to get from the committee. We reached a good compromise on the issue of confidentiality. The Senator from Penobscot, Senator Perry, and I were working on this bill together. If there is a way to go to the second report and make it so that we can provide a level of support for people who are looking at their darkest day I would tell you that the agreement that we worked out with the Department of Human Services and the Governor's Department was unanimous when we walked in the room. We had no objections from the Department of Human Services. They thought it was a good idea. Unfortunately, things broke down when the Attorney General's Office came in.

I'd like to see this happen if it can. If we can move on to the second report, that would be a great way of helping put a little bit of balance back into a system that results in the death penalty for a family. Thank you.

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

Senator **PERRY:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm the sponsor of this bill. This issue was brought to me by constituents and the changes that occurred at the time turned out to be very concerning to me and to many. I'm going to be supporting the Senator from Androscoggin, Senator Nutting's report, however in the end I just need to make sure that we do something to improve the situation. Thank you.

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

Senator **HOBBS:** Thank you very much, Madame President, men and women of the Senate. This particular bill drew a great deal of attention by the Judiciary Committee. I must say that I am a little disappointed that the bill didn't get unanimous approval because at one point this bill was going to arrive dead on arrival in this chamber with one vote on the bill. With much bi-partisan discussion among the other 12 members of the committee, and much coaxing by the two chairs of the committee and working with the Senator from Penobscot, Senator Perry, we arrived at this particular version of the bill that comes a long way. Quite



frankly, to get it to this point is good work on the part of the committee.

It's easy to bash the Department of Health and Human Services. Quite frankly, they gobble up a great deal of our budget. There has been criticism about the efficiency of not only their computer system but the delivery of services. When push comes to shove, at the end of the day the major thrust of the programs that deal with child protective work is what's in the best interest of the child. There are cases where there have been some instances where children have been removed from homes, probably abruptly and maybe inappropriately, but the great significant majority of cases warrant the removal on a temporary basis if there is any issue of abuse and neglect of a child. That's what we are talking about here. It's easy to cherry pick a case out and talk about one particular case or two particular cases because, quite frankly, the two or three good Senators who have spoken so far can name a few. What we attempted to do in this particular bill in the Majority Report was to allow the release of child protective information to a parent or legal guardian of a child who is the subject of a child protective action within the Department of Health and Human Services. This bill, the Majority Report, allows the parent or the legal guardian to at least release that information because that information is confidential information. What we decided to do, as a major step, is to allow for the release of that information to any person if the disclosure of that information was intended to contribute to the person's understanding, meaning the legal guardian or the parent, of the action being taken or the person's request for advocacy in support of a current child protective action. What occurs under the present law, unfortunately, is that this information is confidential. If a parent, parents, or guardian wanted to call their State Representative or State Senator and release that information, technically they were violating the law because they were releasing confidential information. If they call an advocate or some type of child welfare advocate that's not part of the State, they were breaking the law. What this amendment will do is a great first step. It will allow the parents or legal guardian of the case where there is an attempt to take the child out of the home to be able to disclose that information in order to have a more level playing field with the Department of Health and Human Services and the Assistant Attorney General or Attorney General that is involved in the case.

If I would have known that we were going to have a contested case in this bill I probably would not have put as much effort and energy into trying to craft something that is, quite frankly, a very good start in the right direction. In a way I'm disappointed. I respect my good Senators who take a different position, but I hope you will go along with the bi-partisan effort of 12 of the 13 members of the Judiciary Committee in this particular case and support this very important bill. Thank you very much.

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

Senator **PERRY:** Thank you, Madame President. I won't delay this because after I sat down I think I messed up a little bit. I remember when this bill was dead. I remember the work that the chairs of the committee did to resurrect it. I think I misspoke earlier. I believe in the big picture. I'm with the Senator from Androscoggin, Senator Nutting, and where he would like to be, but I'm voting with the current motion because we need to move the issue forward. Thank you.

At the request of Senator **NUTTING** of Androscoggin a Division was had. 24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **HOBBINS** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-303) **READ** and **ADOPTED**.

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

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

Bill "An Act To Return a Portion of Sales, Lodging and Meals Taxes to Municipalities"

H.P. 918 L.D. 1300

Tabled - June 14, 2007, by Senator **COURTNEY** of York

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-576)**, in concurrence

(In House, June 13, 2007, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-576)**.)

(In Senate, June 14, 2007, Committee Amendment "A" (H-576) **READ**.)

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

Senator **COURTNEY:** Thank you, Madame President. I just want to speak real briefly before we pass this along. I realize it's unusual to stand up on a unanimous committee report, but I just took a look at it and I want it to go on the record and make sure everybody knows what we're passing. It appears that this bill increases the structural gap. It dedicates future increases in sales tax for local property tax relief, but it increases the structural gap up here. The fiscal note is pushed out until 2009-2010, which is \$4.5 million, and 2010-2011, which is \$9.5 million. I don't believe that is going to face the scrutiny downstairs because it's pushed out beyond the biennium. It, again, increases the gap. As we've found out in the past, it's difficult to provide property tax relief from Augusta because we don't control the municipality's spending. Perhaps it might be better, and this is a small piece, looking at using these funds for income tax relief, where we actually can provide tax relief. I just wanted to go on the record and make those points. Thank you, Madame President.

Committee Amendment "A" (H-576) **ADOPTED**, in concurrence.

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

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**.

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

Senator **MARTIN:** Thank you, Madame President. I am really pleased that the Senator from York, Senator Courtney, brought attention to this bill. I caught it purely by accident after he raised the issue and I looked at the fiscal note. It's a good try by the Taxation Committee. Unanimous, I might point out, but it does create a little deficit down the road, like \$20 million. I think we ought to be a little careful about what we do in the guise of saying we're providing relief to the taxpayers of Maine.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. I think I knew exactly what I was doing when I voted and joined the majority on this. It's unfortunate, I guess, that we're going to drop to our partisan discussion right now, but to me this is about starving the beast. Whether it is called the structural gap or not, this is one way for those of us that think State government is too big to rein that in, one way or the other. I think it is fair to say that this is also one piece that seemed very attractive for those people who are interested in property tax relief. That effort, on the part of the Taxation Committee, was a combination of income and property tax relief. Even among my caucus we were divided as to what's more important. We attempted to provide both. In this case, Madame President, it is clear that this is property tax relief even though we have not discovered the way to force our municipalities and our school districts to deliver it yet. We've certainly had a lot of discussion about that. To those folks who you heard from during the election, who are concerned about their property taxes, this is property tax relief delivered in the next biennium.

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

On motion by Senator **MITCHELL** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE**. (Roll Call Ordered)

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The Chair laid before the Senate the following Tabled and Later (5/9/07) Assigned matter:

Bill "An Act To Allow the State Timely Opportunity To Participate in Settlement Negotiations for MaineCare Benefits"  
H.P. 1091 L.D. 1566  
(C "A" H-167)

Tabled - May 9, 2007, by Senator **BRANNIGAN** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167)**, in concurrence

(In House, May 3, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167).**)

(In Senate, May 9, 2007, **READ A SECOND TIME.**)

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-167), in concurrence.

On further motion by same Senator, Committee Amendment "A" (H-167) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-306) **READ**.

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

Senator **ROSEN:** Thank you, Madame President. Just a simple request. I'm reading and trying to pick up the differences between the Committee Amendment that was Indefinitely Postponed and reading through Senate Amendment S-306. If the sponsor of the amendment could just relay the gist of the distinctions between what was killed and what was added that would be very helpful.

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

Senator **BRANNIGAN:** Thank you, Madame President. Most committees get things absolutely right all the time. One of them is the Health and Human Services Committee. However, there are times when adjustments are needed. This is an adjustment. It clarifies the obligation to provide notice to the Department of Health and Human Services when a MaineCare recipient has received benefits paid for by the MaineCare program. This was our intention in the beginning and it's an amendment that needs to be made. It was crafted by our committee and our staff. Thank you.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "A" (S-306) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-306)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (6/11/07) Assigned matter:

Bill "An Act To Amend the Conservation Easement Laws"  
H.P. 1220 L.D. 1737

Tabled - June 11, 2007, by Senator **MITCHELL** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-490)**, in concurrence

(In House, June 11, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**.)

(In Senate, June 11, 2007, Committee Amendment "A" (H-490) **READ**.)

On motion by Senator **HOBBS** of York, Senate Amendment "A" (S-270) to Committee Amendment "A" (H-490) **READ** and **ADOPTED**.

On motion by Senator **DAMON** of Hancock, Senate Amendment "B" (S-305) to Committee Amendment "A" (H-490) **READ**.

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. This amendment that I am offering was a agreement that was reached by the parties involved in this bill, L.D. 1737, after the bill was voted out of committee. I believe it was, and I'll defer to the good Senator from York, Senator Hobbins, to confirm this, I believe it was the opinion of the committee that if there was a further compromise agreement after the bill was voted out it would be offered. That is what is being offered at this time. This compromise agreement, I believe, was between the Forest Products Council and the conservation groups involved. It has sufficiently addressed all of the concerns that they had and I would move its adoption into L.D. 1737. Thank you, Madame President.

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

Senator **HOBBS:** Thank you, Madame President, men and women of the Senate. The good Senator from Hancock, Senator Damon, is correct. What occurred was, because of the deadline of getting bills out of committee, that we urged the stakeholders who were having ongoing negotiations to continue those negotiations, and in the event that they reached a compromise that was acceptable and consistent with what was being discussed when the bill was reported out, we would recommend that either or both Bodies adopt the amendment. This is the result of those negotiations. I commend both parties for continuing their negotiations to reach this amicable resolution.

On motion by Senator **DAMON** of Hancock, Senate Amendment "B" (S-305) to Committee Amendment "A" (H-490) **ADOPTED**.

Committee Amendment "A" (H-490) as Amended by Senate Amendments "A" (S-270) and "B" (S-305) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490) AS AMENDED BY SENATE AMENDMENTS "A" (S-270) AND "B" (S-305) thereto, in NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/29/07) Assigned matter:

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

H.P. 347 L.D. 431  
(C "A" H-285)

Tabled - May 29, 2007, by Senator **DIAMOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-285)**, in concurrence

(In House, May 24, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-285)**.)

(In Senate, May 29, 2007, **READ A SECOND TIME**.)

On motion by Senator **DIAMOND** of Cumberland, Senate Amendment "D" (S-309) **READ**.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. This whole issue came about when we first debated L.D. 431, which was the self-administered, self-insurance bill for Dirigo. I had raised the question, if this bill had passed would it have any effect on the General Fund? That question became somewhat complex and took a lot of time to find an answer to. Finally, I realized that it did or could impact the General Fund. This amendment does three things. It provides more protection for the General Fund. It also asks the Bureau of Insurance to do a more extensive review of all the financial areas of Dirigo. It also makes another change in the four new members that L.D. 431 would add to the Board of Trustees. This would allow the four-corner appointment. This would allow the Speaker, the President, and the two Minority Leaders in both Bodies to make recommendations to the Governor and he or she would have to choose from those recommendations. The idea there is to try to open this whole process up a little bit more so that there is more involvement by more people and a little more sunshine shining on the process itself. That is what the amendment does. It provides those three things. Thank you, Madame President.

On motion by Senator **MITCHELL** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **DIAMOND** of Cumberland to **ADOPT** Senate Amendment "D" (S-309).

The Chair laid before the Senate the following Tabled and Later (6/12/07) Assigned matter:

Resolve, Regarding Legislative Review of Chapter 007: Implementation of the Essential Programs and Services Funding Model, a Major Substantive Rule of the Department of Education (EMERGENCY)

H.P. 727 L.D. 967  
(H "A" H-398)

Tabled - June 12, 2007, by Senator **BOWMAN** of York

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-398)**, in concurrence

(In House, June 6, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-398)**.)

(In Senate, June 12, 2007, **READ A SECOND TIME**.)

On motion by Senator **BOWMAN** of York, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** House Amendment "A" (H-398), in concurrence.

Same Senator moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-398), in **NON-CONCURRENCE**.

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

Senator **BOWMAN:** Thank you, Madame President. There was a misunderstanding on the intent of L.D. 967 on my part and I think on the part of many others present. I thought it applied to a broader issue of management versus labor, if you will, teachers. In fact, it does not. What this really applies to is targeted funds and what L.D. 967 really does, what its intent is, is to make sure that in those three areas where targeted funds are issued by the Department of Education that the Department has control over these funds and where they are spent. It requires a step-by-step implementation plan for the administration and spending of these funds. It further asks for, I don't have the language right in front of me but I can quickly get it, the consultation with the Teachers' Association in this process. The Department of Education feels this is vital to the implementation and control of targeted funds. Now that we have stripped the House Amendment from it, I wish to move the passage of L.D. 967.

Senator **MILLS** of Somerset requested a Roll Call.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. This is perhaps one of those rare occasions when I think the other Body has it right. This is a very difficult issue to discuss because we're not just discussing a statute or an amendment to a statute that lies before us. We're

discussing the approval or non-approval of some rules that were voluminous and that were written by the Department of Education. You have to accept representations of what those rules say from those of us who had occasion to look at them. It puts us all in an awkward spot, if you will.

Basically, the rules, as I recall them, were along these lines. We had, as many of you know, three areas of targeted funding under EPS. Areas where we say, 'Look, if you, the School District, wish to receive State supplements in these categories you have to show us that you're spending money on those categories and how you have a plan to spend those monies, those funds.' Technology is one of them. How you spend your extra money on K-2, I think, is one of them. There is a third one that escapes me. In any case, the Department felt it was appropriate to develop rules to direct districts in understanding what they had to show as evidence to satisfy the Department that they were entitled to supplements in those three targeted areas. The rules were major substantive rules and they came to us. Here's the rub, within the rules there was a clause that said that there had to be developed a step-by-step action plan and that it had to be done with the agreement of the local teacher associations. As I recall, a majority of us on the committee said, 'Well, wait a minute. It should suffice that those plans are developed by the Department in consultation with the Teachers' Association. That the power of writing the rule, in the final analysis, should rest with the Department and that power of making the arrangement ought not to be delegated to the teachers' association.' That's a matter of policy, that this policy issue ought to rest with and reside with the Department, but that there should be consultation with the teachers, among others.

One of the reports coming out of the committee, and I guess I won't try to characterize it as majority or not because I don't remember, used the words 'in consultation with' as a substitute for the words 'in agreement with' and then the amendment that came up from the House, that is now before you for stripping, went a little further, and I think it was fair to do so, and said, 'in documented consultation with the Teachers' Association' so that the requirement to consult with the teachers was more firmly established in the amendment that was put on this bill by the other chamber and the amendment that now lies before you represents, in some sense, the compromise. The effect, I guess, of the pending motion is that it would strip off the consultation words and you would go back to approval. In my view, it would reconstitute the Teachers' Association with essentially a power of veto over a policy issue that should reside, I think, in the final analysis with the Department. I'm sorry for the long explanation. To many of you who have been here a while, you understand that this is an old and tiresome issue that goes back three or four decades, not in this context but in the bargaining context. I'm suggesting that this is another manifestation of this age-old problem of where does policy power ultimately reside. This legislature, going back for 40 years, has consistently determined that ultimate decision on matters of policy rests with either the school board at the local level or the Department of Education at the State level and not with the very worthy people who belong to the Maine Education Association. For that reason, I would ask you to oppose the pending motion so that we might readopt or reaffirm the work of the House and our prior adoption of the House Amendment.

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

Senator **BOWMAN**: Thank you, Madame President. First of all, you need to understand that I'm not a lawyer. I don't understand some of the subtleties. Secondly, you need to understand I'm new at this business. The third thing you need to understand is that I have experience in management, so I believe I know what is management's prerogative, what is sacred. Fourthly, you need to know that I have great empathy and sympathy for the unions. I don't want to give a lecture on why unions were instituted, but it's because management screwed up 150 years ago. The best organizations are those where the union basically has no purpose because management is so committed to the welfare of the organization and everybody that works within it.

My experience with this issue is a he said, she said. Don't get the genders involved in it, it's just one set of people say one thing and the other says another. Superintendents in my district say they don't need this and don't want this because they already consult with and act on what their teachers want. I believe them. In my Education Committee I have teachers, some current and others retired after 20, 30, or 40 years of teaching. They say that in their experience in their districts the Superintendent didn't listen to them. Not only did they not listen to them, they didn't act on them. You may not agree with them. This is first hand information. It may be different in your school. I just want to provide that as context for my position on this issue.

On motion by Senator **MILLS** of Somerset, 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 Bowman to Indefinitely Postpone House Amendment "A" (H-398). 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 (#145)

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

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

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **INDEFINITELY POSTPONE** House Amendment "A" (H-398), in **NON-CONCURRENCE, FAILED**.

House Amendment "A" (H-398) **ADOPTED**, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-398)**, in concurrence.

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

#### PAPERS FROM THE HOUSE

##### Joint Resolution

The following Joint Resolution:

H.P. 1365

#### JOINT RESOLUTION TO RAISE AWARENESS ABOUT APPROPRIATE BEHAVIOR AT SPORTING EVENTS AND TO ENSURE THE SAFETY OF SCHOOL ATHLETIC CONTEST OFFICIALS, PLAYERS, COACHES AND FANS

WHEREAS, participation in sports events is a popular part of American life and is of interest to all age levels and all segments of society, including our schools. Participation in sports helps keep people healthy and is important in developing good social skills and in learning about cooperation and teamwork; and

WHEREAS, sports in general consist of a partnership between the players, the coaches and fans, and sports have evolved over the years with established rules and certain traditions to ensure continuity, safety and fairness; and

WHEREAS, sports have strong ties to our schools and colleges, and school athletic officials, such as referees, umpires, judges, timekeepers, coaches, instructors and administrators, are in one sense the most important component in school athletics and are essential to continued success, by ensuring accuracy and fairness; and

WHEREAS, many school athletic officials volunteer their time or receive only minimal compensation, participating out of the love for the sport and the desire to teach student athletes the valuable lessons that are learned through sports participation, such as sportsmanship, working as a team and following rules of the game to achieve a common goal; and

WHEREAS, school athletic officials act as neutral judges without a stake in the games and should never be at risk of assault or abuse by participants in the game or fans or family of competing teams; and

WHEREAS, student athletes and fans are exposed to constant media coverage of professional sports athletes who sometimes act out in inappropriate ways and the student athletes may sometimes feel compelled to emulate their professional sports heroes; and

WHEREAS, increasingly, school athletic officials in America are subjected to verbal and sometimes physical assault and abuse by disgruntled fans, family members and participants of the game; and

WHEREAS, we wish to take action to stop these assaults before a school athletic official is seriously injured and we urge local authorities, law enforcement, prosecutors and judges to consider applicable penalties to help ensure that all parties at

sporting events realize that such behavior is unacceptable at all times; and

WHEREAS, the school athletic officials who give their time and energy to officiate and supervise games deserve our collective respect and they must have complete confidence that they will be able to carry out their responsibilities in a safe environment; and

WHEREAS, sports need to be a positive part of life that highlights positive accomplishments and educates in the rules of sportsmanship and fair play; 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 to express our unequivocal support for the good people who take their time to officiate, coach and supervise our school athletics and we urge all law enforcement agencies to prosecute to the fullest extent of the law when the line is crossed in an illegal manner during a sporting event.

Comes from the House, **READ** and **ADOPTED**.

**READ** and **ADOPTED**, in concurrence.

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

**ENACTORS**

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

**Emergency Measure**

An Act Regarding Residential Care Facilities for Children  
S.P. 333 L.D. 1016  
(C "A" S-250)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

**ENACTORS**

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

**Emergency Resolve**

Resolve, Regarding the Maine State Cultural Building in Augusta  
H.P. 1308 L.D. 1876  
(H "A" H-466 to C "A" H-400)

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

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

**ENACTORS**

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

**Acts**

An Act To Require Health Insurance Coverage for Hearing Aids  
S.P. 537 L.D. 1514  
(C "A" S-265)

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

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An Act To Exempt Certain Meals Provided to Food Service Employees from the Sales and Use Tax  
H.P. 1271 L.D. 1823  
(C "A" H-413; H "A" H-515)

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

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

**ENACTORS**

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

**Acts**

An Act To Assist Maine Military Families  
H.P. 212 L.D. 256  
(C "A" H-502)

An Act To Clarify Involuntary Admissions for Psychiatric Hospitalizations  
S.P. 669 L.D. 1855  
(C "A" S-266)

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

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

**ENACTORS**

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

**Resolves**

Resolve, Directing the Department of Public Safety and the Attorney General To Review Other States' Concealed Weapon Reciprocity Agreements and Actively Seek Reciprocity Where Appropriate

H.P. 130 L.D. 148  
(C "A" H-478)

Resolve, Directing the Commissioner of Labor To Convene a Task Force To Evaluate and Recommend Revisions to the Definition of Service Dog

H.P. 233 L.D. 289  
(C "A" H-472)

Resolve, To Support Creative Economy Businesses

H.P. 348 L.D. 449  
(C "A" H-473)

Resolve, To Require State Agencies with Jurisdiction over Dams To Review and Update Plans for the Passage of Native Diadromous Fish

S.P. 551 L.D. 1528  
(C "A" S-252)

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

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Expand the Pine Tree Development Zone Benefits to Small and Midsize Maine Manufacturers"

H.P. 1364 L.D. 1926

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Ordered sent forthwith to the Engrossing Division.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act To Create the Maine Fishery Infrastructure Tax Credit Program"

H.P. 288 L.D. 358

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-581)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-581)**.

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

**READ ONCE.**

Committee Amendment "A" (H-581) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act To Exempt from Excise Tax Maine Military Personnel Who Are Serving Their Tours of Duty in Maine"

H.P. 678 L.D. 893

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-580)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-580)**.

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

**READ ONCE.**

Committee Amendment "A" (H-580) **READ** and **ADOPTED**, in concurrence.

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

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Senate at Ease.

Senate called to order by the President.

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### ORDERS OF THE DAY

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

Bill "An Act To Incorporate Binding Arbitration for Monetary Issues in Collective Bargaining for All State, County and Municipal Employees"

S.P. 257 L.D. 814

Tabled - June 14, 2007, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In Senate, June 12, 2007, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268).**)

(In House, June 14, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-268)**, in **NON-CONCURRENCE.**)

(In Senate, June 14, 2007, Senator **MARTIN** of Aroostook moved the Senate **INSIST.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

### ROLL CALL (#146)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, HOBBS, NUTTING, SCHNEIDER, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, COURTNEY, DIAMOND, DOW, GOOLEY, HASTINGS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NASS, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

12 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**, **FAILED.**

On motion by Senator **MARTIN** of Aroostook, the Senate **INSISTED.**

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

### PAPERS FROM THE HOUSE

#### Non-Concurrent Matter

Bill "An Act To Allow Direct-to-consumer Wine and Malt Liquor Sales"

S.P. 54 L.D. 143  
(C "A" S-245)

In Senate, June 12, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-245).**

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

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

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### ORDERS OF THE DAY

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

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

H.P. 347 L.D. 431  
(C "A" H-285)

Tabled - June 14, 2007, by Senator **MITCHELL** of Kennebec

Pending - motion by Senator **DIAMOND** of Cumberland to **ADOPT** Senate Amendment "D" (S-309)

(In House, May 24, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-285).**)

(In Senate, May 29, 2007, **READ A SECOND TIME.**)

(In Senate, June 14, 2007, on motion by Senator **DIAMOND** of Cumberland, Senate Amendment "D" (S-309) **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 York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. This is an amendment to the self-insurance that would put more insight and would allow, as the Senator from Cumberland, Senator Diamond, said, more transparency and also all four-corners, both Majority and Minority Party will have a say in the new board. I would ask your support. I voted the way I did, asking it to be tabled, earlier simply because I had not seen the amendment. We were partying at our luncheon and had not seen it. Having seen it and spoken to the



good Senator prior, I just wanted to see it and read it before I voted on it. I would ask you to support this.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Diamond to Adopt Senate Amendment "D" (S-309). 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 (#147)**

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, 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

NAYS: Senators: None

35 Senators having voted in the affirmative and No Senator having voted in the negative, the motion by Senator **DIAMOND** of Cumberland to **ADOPT** Senate Amendment "D" (S-309), **PREVAILED**.

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 (#148)**

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, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-285) AND SENATE AMENDMENT "D" (S-309), in NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/13/07) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Increase the Number of Androscoggin County Commissioners"  
H.P. 1349 L.D. 1916

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-507)** (9 members)

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

Tabled - June 13, 2007, by Senator **MARTIN** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 12, 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-507).**)

(In Senate, June 13, 2007, Reports **READ**.)

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

On motion by Senator **SCHNEIDER** of Penobscot, 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 (#149)**

YEAS: Senators: BARTLETT, BENOIT, COURTNEY, DIAMOND, DOW, GOOLEY, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, STRIMLING, WESTON

NAYS: Senators: BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, HOBBS, MARRACHE, MARTIN, MCCORMICK, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-507) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (6/13/07) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Provide a Tax Credit for the Purchase of Small Wind Power Generators for Personal or Small Business Use" H.P. 279 L.D. 349

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-548)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - June 13, 2007, by Senator **MARTIN** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 12, 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-548)**.)

(In Senate, June 13, 2007, Reports **READ**.)

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

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

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

Senator **PERRY:** Thank you, Madame President. This was a bill that was brought to us on behalf of a couple of gentlemen who have a windmill business here in the state of Maine. They made a very convincing pitch as to why the State should be giving a tax credit to folks who purchase their windmills. I think that we're asking the State to write a check for \$2,000 per windmill. I don't think this is a well thought out energy policy. These folks are also in the insulation business and have high efficiency windows. I would rather give them a tax credit for putting highly efficient windows into folks houses. That makes a lot more sense if we're looking into energy policies. There are a lot of reasons why people would buy a windmill. I don't think it necessarily has a lot to do with good energy policy or is a place where the State should be investing that kind of money. Those are the reasons why I was in opposition to this bill and why I'll be voting against the motion. Thank you.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. I just have one small correction. I'm

sure that the chair of the Taxation Committee didn't mean to suggest that this was in the nature of a private or special tax credit and that it was just these two guys' windmills. That's how I interpreted his remarks. I'd like to correct that and suggest that it was a little more broad than that. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Nass 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 (#150)**

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

NAYS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, PERRY, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **NASS** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-548) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (6/12/07) Assigned matter:

SENATE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers"

S.P. 540 L.D. 1517

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-261)** (5 members)

Tabled - June 12, 2007, by Senator **SULLIVAN** of York

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

(In Senate, June 12, 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 Piscataquis, Senator Smith.

Senator **SMITH:** Thank you, Madame President. Just a couple of words. This is, presumably, the leading edge of a discussion we're going to have on health insurance and this bill happens to be out of the committee and on the floor so we can perhaps start now. As you know, we have a real health insurance crisis in this state. For a great number of years, going back to the 1990's, this legislature has tried in first one way and another to address that issue. I know that a great debate is going on, or has gone on, within the Insurance and Financial Services Committee this session to do so.

This bill is fairly simple and straightforward. It would not really impact the other solutions that are being suggested and I think can be pretty much approached on a stand-alone basis by simply permitting those who may wish to obtain their health insurance, through the apparatus of this bill, from another state. Now there are some qualifications in this bill that would require that those health insurance policies be actively marketed and sold in other states in compliance with the laws of those other states. The bill, itself, lists the names of those states and I think there is a dozen or so there as I recall. I don't have it right in front of me right now, but it certainly goes as far south as Maryland and all of our neighboring states in New England, I think, are on the list. Those policies would be policies that would be marketed and are in use in those states. Given the situation that we have here in Maine which is not very desirable and injuring our economy, not only in the private sector but injuring every SAD, every local governmental entity, it's a very difficult situation and it's driving up the cost of doing business and the cost of governance across the board. Here is a bill that I think we can do on a stand-alone basis that may help some out. It certainly is not an ultimate answer, I think that will probably come later, but it is an option. It gives folks who don't have a better option the opportunity to buy health insurance in another state.

I'm sure you've all seen the comparisons between our state and others. There have been two published just in the last few months between Maine and New Hampshire. The one I am recalling, off the top of my head, is the one that I believe appeared in Downeast magazine about three or four months ago where a family of four living in Portsmouth, New Hampshire and Kittery, Maine were compared with a \$1,000 deductible, but basically the same policy. The policy in Maine was in the nature of \$2,200 per month after the most recent adjustment for that family. The same policy in New Hampshire was about \$980. The Maine Heritage Policy Center did a similar survey for a single individual, same basic story. We're talking about a very great difference in cost here. With the difficulty that our families here in Maine are having in obtaining adequate health coverage, it seems to me that this option, as we begin to address the question more broadly and perhaps come up with other solutions, would do an awful lot of good for an awful lot of people. I hope that you will support this bill in the end. 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 stand here in support of L.D. 1517. As the good Senator from Piscataquis, Senator Smith, said this is just another tool in the toolbox to try to bring down the cost of our health insurance. The purpose of L.D. 1517 is to make private insurance more affordable, to give people more coverage options, and therefore increase the number of Mainers with private health insurance. Forty percent of all private sector employees in Maine work for a small employer, less than 50 employees. This is far above the national average of 29%. Only seven states have a larger share of private workforce working for a small business. This bill is intended to help out small businesses. I think it's a very creative way of doing it. Given that we have a very tight health insurance market in Maine, there is very little competition; given that there is nothing in this legislation regarding such items as Dirigo expansions, self-insurance, and larger groups and the intent of Dirigo is not to be the only insurance offered in Maine; and given that the realities of such items as a high risk pool, guaranteed issue, community rating, which I hope we will be changing that soon, and other mandates have contributed to the decision of many health insurance providers to leave the insurance market in Maine, this bill goes just a little way in the direction of providing more health insurance for folks in Maine.

For those of you who like mandates, buying insurance from out-of-state insurance will not reduce Maine's coverage options but instead will dramatically expand them. In fact, by voting for L.D. 1517, Maine's insurance can get more mandated coverage, such as ambulance, bone marrow transplants, and I could go on and on. There are quite a few of them here. Through L.D. 1517 small businesses in Maine would have access to those plans sold to small businesses through the Northeastern United States. I ask you to support the Minority Report. 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. I'm going to ask you to support the motion in front of you. Let me explain a couple of really quick things. First of all, Maine is the oldest state in the Union. I don't mean chronological age, I'm talking about the number of people here that are older per capita than in any other state. Those people tend to be the sickest. If we were to allow people to go out-of-state to buy their insurance it would take the healthy people out. They would go to New Hampshire and it may be cheaper, but guess what? Somebody has to pay for all our elderly, the nursing, and all of that. The whole idea of insurance is that the larger the pool the less expensive it is. We want both the sick and the well.

I want to talk to you for just a couple of minutes about what the committee heard. First of all, from the Department. They were in opposition to this for a number of reasons. First of all, if you remember from budget days, they are self-funding. You don't have people here. You are simply taking away from the Maine insurance companies. Pure and simple. More importantly here is what the Department said this bill would allow the sale of policies approved in the state of domicile of any carrier licensed in one of the eleven states listed in the bill. For example, a Nebraska

carrier, licensed in Delaware, could offer Maine residents a policy approved for sale in Nebraska. It is not clear if this is the intent. Do you want what's approved in Nebraska? It may have nothing to do with health risks here. Second, Section A-1 refers only to the individual health insurance while Section A-2 refers to both individual and group. You have a vagueness in law. We don't understand what you're talking about. In one case you're talking about small businesses. That's group. In the other case you're talking about individuals. Which is it? It makes a huge difference if you merge those markets or not and it is actually a real problem. The next one, it is unclear what types of health insurance the bill is intended to apply to. Many provisions of the bill refer to health insurance that would include products such as the disability income insurance or long term care insurance, as well as medical insurance. Other provisions refer to health plans, a term often used in reference to medical coverage but not clearly defined for purposes in this bill. There is a definition of health plan in the health plan improvement act, but that definition is only applicable for the purpose of that chapter. There are major drafting problems with this to begin with. The law cannot be enforced as written.

Anthem is the one group that is staying here right now while we try to do market reform. You'll have a chance to do some real market reform which Maine companies support later. It says here, this is from Anthem and in their testimony before the committee, 'This bill attempts to fix the challenges associated with a highly regulated insurance market with a solution that, though well intentioned, would likely cause Maine's market to deteriorate even further.' They also say, 'Anthem Blue Cross/Blue Shield strongly opposes this bill for three primary reasons; members who are currently enrolled in Maine policies would be adversely impacted by the substantially higher premiums.' That's the taking of the well people and moving them out. Those people who are enrolled would pay more. The elderly will pay more and if they already have a preexisting condition they cannot get insurance in New Hampshire. Next one, 'It would exacerbate the death spiral in the existing individual market.' The death spiral is all of the young people not there and the old, that's the whole idea of death spiral. 'It would create an unfair, unlevelled playing field for domestic insurers by giving an advantage to out-of-state carriers in the individual and group markets.' They are major reasons. Yes, we do need to reform health insurance. This is not the answer and there is a bill that many of you will hear about that will do it. This is not the answer. I ask you to please not support this. Thank you very much, Madame President.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. If what we just heard is true, that the bigger the pool the lower the rates, then wouldn't it be great to have a pool the size of our entire country? I will just tell you that we all love a good deal. When it comes to healthcare we need a good deal. I notice Oregon is not on the list of states. My daughter moved to Oregon for one year. While she was out there she had to leave our policy because she was finished with college. She found a policy that fit her needs, one that she could afford, for \$75 a month. She left after a year, came back to Maine, tried to pick up the very same policy, and found one for \$250 a month. That's the difference that Maine people are seeing

and that's what this bill is trying to address in a way that will help people. I certainly applaud that. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. Not to belabor the subject. Unfortunately, the Senator from Waldo, Senator Weston's daughter will still be effected because those eleven states are Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania, or the District of Columbia. There are still only eleven states you could do that in. That's not even half.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#151)

**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, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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#### Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (6/12/07) Assigned matter:

Bill "An Act Relating to the Wells-Ogunquit Community School District"

S.P. 375 L.D. 1123  
(C "A" S-175)

Tabled - June 12, 2007, by Senator **WESTON** of Waldo

Pending - motion by Senator **NASS** of York to **INDEFINITELY POSTPONE** the Bill and accompanying papers

(In Senate, June 12, 2007, **READ A SECOND TIME.**)

Senator **NASS** of York requested and received leave of the Senate to withdraw his motion to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (6/13/07) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Require Insurers To Use Savings from Dirigo Health To Reduce Premiums"  
H.P. 719 L.D. 959

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-530)** (5 members)

Tabled - June 13, 2007, by Senator **SULLIVAN** of York

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

(In House, June 12, 2007, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 13, 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 support of "An Act To Require Insurers To Use Savings from Dirigo Health To Reduce Premiums", L.D. 959. First let me explain that I am saddened that Representative Abby Holman was not in the other Body to be able to debate this bill. This piece of legislation was very important to her. I am standing up to speak for her in support of L.D. 959.

L.D. 959 proposes to limit Dirigo Health savings offset payments to 75% of the aggregate measurable cost savings as determined by the Dirigo Health Board of Directors. The bill would also require the Dirigo Health Board of Directors to adopt major substantive rules regarding the factors to be used to calculate aggregate measurable cost savings. Finally, the bill would require health insurance carriers and healthcare providers to demonstrate that best efforts have been made to ensure that a carrier has recovered all of the cost savings determined by the Dirigo Health Board, including the savings offset payment.

The committee, when we were looking at this, was told that both the aggregate and measurable cost savings and the savings

offset payment, which we all know as SOP, are the subject of much controversy and is currently subject to several legal challenges brought on by a number of grounds. For the sake of discussion, I'm going to put those disputes aside and pretend that the AMCS for year one was \$43.7 million and year two was \$34.3 million. One of the problems with the SOP, the savings offset program, as currently structured, is that they take 100% of the AMCS as determined by the Dirigo Health Board. The difficulty with this, again assuming that there is no legal issues associated with the AMCS or the SOP, is that while it makes the SOP a wash, the savings are theoretically offset by the savings offset program assessment and there is no effect on health insurance costs. The problem with this is that the people that pay the SOP, either directly or through their insurance premiums, employers, employees, and individual purchases of health insurance, don't receive any benefit from Dirigo or the savings generated. For these people their costs, which they already struggle with, continue to increase as if Dirigo didn't exist. The provision of L.D. 959 that would limit the SOP to 75% of the savings would, in theory, allow the remainder of the market to see some slight benefit.

I believe in the requirement that the board adopt major substantive rules regarding the factors used in calculating the AMCS. For two years the calculations of the AMCS has been somewhat of a moving target. Therefore, L.D. 959 would establish some degree of structure around this very important determination. I ask you to consider this piece of legislation and vote it out ought to pass. Thank you.

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

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Ordered)

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The Chair laid before the Senate the following Tabled and Later (6/13/07) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Amend the Laws Governing Eligibility for the Maine Residents Property Tax Program"  
H.P. 648 L.D. 849

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-551)** (9 members)

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

Tabled - June 13, 2007, by Senator **MARTIN** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 12, 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-551)**.)

(In Senate, June 13, 2007, Reports **READ**.)

On motion by Senator **NASS** of York, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/12/07) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Dispose of Unfunded Liabilities in State Retiree Health Care Plans

S.P. 534 L.D. 1511  
(C "A" S-259)

Tabled - June 12, 2007, by Senator **MILLS** of Somerset

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-259)**

(In Senate, June 12, 2007, **READ A SECOND TIME**.)

On motion by Senator **MILLS** of Somerset, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-259).

On further motion by same Senator, Senate Amendment "A" (S-311) to Committee Amendment "A" (S-259) **READ**.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. This is tough stuff for late in the day but it has to do with unfunded liabilities, pensions, and State retiree healthcare benefits that are not paid for. We already have in the Maine Constitution, basically, two provisions relating to pensions. These were passed in the mid-1990's after the unpleasantness of 1991 and 1993 when pensions were adjusted because of budget constraints. I think to understand this we have to start by saying that there are three separate components to an actuarial analysis of pension benefits or the unfunded liabilities for them and the same rules apply to health benefits, which is the subject of this bill. At any given moment in time you have the cost that you are incurring to actually pay the benefits to those who are retired out there in the field. That's what we are paying now on health benefits, we are paying as we go only the amount that is accruing for the benefit of the people who have already retired. We have, essentially, minor amounts of money set aside to meet the unfunded costs.

The second component of taking an actuarially responsible position with regard to such costs is that you have to pay on a payroll basis, and should be paying but we are not in regards to healthcare, the amount of money that the actuary says is necessary to put in your piggybank to meet the costs of the future generations of people yet to retire. You have the ongoing costs of

the people already retired. You have what they call the normal costs based on a percentage of payroll to take care of the costs that are accruing for this population that is coming through the pipeline, including all of us who might potentially retire, I suppose, from Legislative service. Then there is a third component. That is what they call the actuarially unfunded liability. That's all of the stuff that we never paid for as people have been coming through the pipeline for the last 30, 40, or 50 years.

There are three separate costs associated with a pension or retirement benefit. In our Constitution, in the mid-1990's, we took care of those three components, very deliberately, by passing two separate Constitutional Amendments. We took care of the pension system and we are now chipping away at that great long tail of unfunded liability that we owe going all the way back to 1917, and this is interesting, when we first established a completely unfunded pension system for teachers. We paid as we went for quite a long time and then suddenly we realized that we had an awful lot of very senior teachers collecting under this system and an awful lot more coming through, including my mother. We had nothing set aside in the piggybank to take care of them. We were way behind, and not only on this debt. Frankly, compared with other states we were pretty well behind because our predecessors had been, perhaps, a little generous back in the era around 1917 and WWI. That aside, we've taken care of it and we're chipping away at it. By the year 2028 we will, we hope, have set aside enough money, pursuant to the Constitution, to pay that.

Now we have the other elephant, that is the burden of paying for health insurance for people who are also in the pipeline. At the moment it is 45% of the cost for teachers and 100% of the cost for State employees. We have the lengthy report, which most of you probably have thrown away by now, that we all received a few months ago explaining what those liabilities were.

As I understand the Labor Committee's work, the committee has made the deliberate decision that they would like to have a Constitutional Amendment in place that would take care of paying for the unfunded liability that we owe for health benefits, both for teachers and State employees, and that they have drafted. They left out one of the three components that are necessary in order to bring the system into balance. This is the subject of the amendment. The main difference between the amendment and the committee bill is that the amendment says that as we are traveling down this path we have to pay the normal costs that accrues payroll to payroll to make sure that we are putting aside costs that are being accrued every two weeks as we make payroll in the State system for the benefits that we will owe someday to those who will eventually retire. On top of that, we have to pay for the unfunded liability that has built up over these many years that we weren't paying the normal costs on. We have really two problems to be solved and the way that the committee bill is drafted is that it only solves the second problem, which is the actuarial liability. If you don't include in the Constitution, as we have with pensions, an obligation to continue weeding the normal costs from payroll to payroll it would be, I'm afraid, feasible under this mini-version to ignore the normal costs and pay only the actuarial liability that exists at the time when this Constitutional Amendment might be passed by the people. In other words, it would not fulfill the expectations of people who were trying to deal with this problem. It's redrafted in the Senate Amendment that I'm offering to you this afternoon. This amendment is parallel to the fashion in which we treated pension liabilities in the mid-1990's. I was here for that. In that day and time we had

complete support of the Maine State Employees' Association, the Maine Education Association, and others that were interested because they wanted those liabilities taken care of and that's why those amendments went out to the people and passed. We now have a perfectly parallel situation with regard to unfunded health benefits and I'm asking that we adopt a perfectly parallel solution to this actuarial problem, that we commit ourselves to paying not only the current unfunded liability that has built up over the years but also the week-to-week normal costs that have to set aside to meet this future obligation. That is as best I can explain it this late in the day, Madame President. Thank you for your attention.

Senator **STRIMLING** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-311) to Committee Amendment "A" (S-259).

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

Senator **STRIMLING:** Thank you, Madame President. I will try to simplify, as best I can. The Senator from Somerset, Senator Mills, explained it very well. If you were able to follow it, it is correct. Exactly as he said. We went through the same discussion in the committee. This was a unanimous report. When the bill was presented to us it was very divided because what the good Senator from Somerset, Senator Mills, is proposing would restrict future Legislatures from being able to make decisions that we have been able to make in the past. We felt like that was a bad idea, but we did feel like it was a good idea to pay off the unfunded liability that currently exists and to say, 'Let's make sure we take care of that, but we don't want to be restricting future Legislatures from being able to make a decision about what kind of healthcare they wanted to provide to retirees in the State of Maine because it would, perhaps, restrict our ability to fund other things that we thought were important as well.' We went from a very divided hearing to a place where everybody on the committee felt like we could support it. Even those who had opposed the original were willing to step up and say, 'Well, this is a legitimate compromise. We will pay for what currently exists but we will not restrict future Legislatures from being able to add to who it is they feel they want to provide healthcare for.' I would encourage people to vote for this pending motion.

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

Senator **MILLS:** Thank you, Madame President. I think there is a point of confusion here. It is no wonder. This is very difficult stuff. The point of contention in the Labor Committee, I believe, was whether the Constitution should also say that the Legislature is prohibited from adding to the unfunded liability without paying the entire accrued cost at the time when they add to it. In other words, let's suppose it was the decision of some Legislature to add a health benefit for the benefit of retirees. In the pension system we actually have a provision in the Constitution that says that you can't add benefits to the pension system without paying the entire load of accrued liability. We have done this now, for example, with the Maine State Police. About ten years ago we improved their pensions. We've improved pensions for the Warden Service. We very recently, I think, improved pensions for prison guards and other folks. As we do it, we have to log up to

the surface \$10 million, \$15 million, or \$20 million sometimes to pay for all those accrued benefits.

I understand fully that the members of the MEA and MSCA did not want a Constitutional Amendment that would so restrict the Legislature with regard to health benefits and I respect that compromise that you reached in the committee. Senate Amendment "A" would not require a Legislature to fund all of the accrued liability associated with an improvement in health benefits. I wish it did but it does not, I lost that discussion in the Labor Committee. All that it does is say to just pay every two weeks the normal costs of the existing system as they are accruing. I view this to be a non-controversial obligation. It was not my intention, and I do not believe that Senate Amendment "A" upsets the balance of any compromise that was achieved in this years Labor Committee. Thank you.

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

Senator **BRANNIGAN:** Thank you, Madame President. I would like to pose a question through the Chair.

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

Senator **BRANNIGAN:** Thank you, Madame President. It sounds like we must be talking about a lot of money. I'm wondering, in either the original bill or the amended bill, how it is going to be paid for, when is it going to be paid, and is this just an exercise because it's going to go to the table and die there? Could you explain, please?

**THE PRESIDENT:** The Senator from Cumberland, Senator Brannigan 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. I may need help on this from my opponent. It is a Constitutional Amendment. It is not a bill. It is a proposal to send out to the people to vote on a proposition that we be obliged to fund this liability and the normal costs. As such, the costs are something that would have to be calculated by an actuary, assuming that the people vote to support the amendment. It would be something that would be built into future budgets on an actuarial basis just the way that pension benefits are currently built into our discussions. Given the agenda here, I don't know if it will go out to the people in November and become effective next year. I'm not entirely sure this has current budgetary implications. It does have significant long range budgetary implications. I agree with that.

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

Senator **STRIMLING:** Thank you, Madame President. Because I suspect the good Senator from Somerset, Senator Mills, could be correct, this is less controversial than I thought.

On motion by Senator **BRANNIGAN** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-311) to Committee Amendment "A" (S-259).

Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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The Chair laid before the Senate the following Tabled and Later (6/6/07) Assigned matter:

JOINT ORDER - To Require the Joint Standing Committee on Insurance and Financial Services To Report Out a Bill Regarding Health Insurance and Dirigo Health

S.P. 721

Tabled - June 6, 2007, by Senator **ROSEN** of Hancock

Pending - motion by Senator **SULLIVAN** of York to **PASS**

(In Senate, June 6, 2007, on motion by Senator **SULLIVAN** of York, **READ**.)

On motion by Senator **MARTIN** of Aroostook, the Joint Order **INDEFINITELY POSTPONED**.

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The Chair laid before the Senate the following Tabled and Later (6/13/07) Assigned matter:

JOINT ORDER - To Require the Joint Standing Committee on Insurance and Financial Services to Submit a Bill Relating to Changes in Maines Health Insurance Laws

H.P. 1363

Tabled - June 13, 2007, by Senator **MARTIN** of Aroostook

Pending - **PASSAGE**, in concurrence

(In House, June 12, 2007, **READ** and **PASSED**.)

(In Senate, June 13, 2007, **READ**.)

On motion by Senator **MARTIN** of Aroostook, the Joint Order **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

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

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Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

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

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

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Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

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

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Senator **MILLS** of Somerset was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, to Friday, June 15, 2007, at 10:00 in the morning.