

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Senate Legislative Record

One Hundred and Twenty-Third Legislature

State of Maine

Daily Edition

Second Regular Session
January 2, 2008 to March 31, 2008

Pages 1320 - 1759

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

In Senate Chamber
Tuesday
February 12, 2008

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

Prayer by Paul Cates of Vassalboro Friends Meeting.

MR. CATES: Let us pray. God of all people and all nations, we, the citizens of Maine, stand before You this day recognizing the severity of the challenges we face. We see evidence of downturn in the economy and the corresponding increase in the needs of the most vulnerable among us. In these circumstances we are especially grateful for Your guiding and helpful presence as we, the people of Maine and especially our Representatives and Senators, seek to establish and maintain the type of society in which we all desire to live. We know that meeting the needs of those who Jesus called 'the least of these my brethren' can best be achieved through open exchange of ideas expressed by people of differing political persuasions.

As a spokesman for all the people of Maine, I stand before our Senators this morning deeply impressed by the realization that the women and men in this Chamber are positive and creative thinkers, able to recognize and support good ideas, whether from political colleagues or opponents. It is with a deep sense of gratitude for the motivation and hard work of our Senators and Representatives that I express a wish for them in the words of Abraham Lincoln, whose birthday we celebrate today. My wish is that our Senators and Representatives may work together with all Maine citizens towards solving the problems we face, working together, as Lincoln said, 'With malice towards none, with charity for all, with firmness in the right as God gives us to see the right. Let us strive on to finish the work we are in.' With gratitude, dear God, for Your presence. Amen.

Pledge of Allegiance led by Senator Philip L. Bartlett II of
Cumberland County.

Reading of the Journal of Thursday, February 7, 2008.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **MITCHELL** of Kennebec, the following Senate Order:
S.O. 23

Ordered, that a message be sent to the House of Representatives proposing a Joint Convention of the two Branches of the Legislature to be held in the Hall of the House at 11:00 in the morning for the purpose of extending an invitation to the Honorable Shawn Graham, Premier of New Brunswick, to attend the Convention and make such communications as pleases him.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **MITCHELL** to deliver the message to the House of Representatives. The Senator was escorted to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **MITCHELL** reported that she had delivered the message with which she was charged.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

JOINT ORDER - Directing the Joint Standing Committee on Health and Human Services to report out, to the Senate, a bill regarding parental consent to dispense prescription drugs to children

S.P. 842

In Senate, February 5, 2008, on motion by Senator **SMITH** of Piscataquis, **READ and PASSED.**

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

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

COMMUNICATIONS

The Following Communication: S.P. 851

STATE OF MAINE
123RD MAINE LEGISLATURE

February 8, 2008

Sen. Lynn Bromley
Senate Chair, Joint Standing Committee on Business, Research
and Economic Development
Rep. Nancy E. Smith
House Chair, Joint Standing Committee on Business, Research
and Economic Development
123rd Legislature
Augusta, ME 04333

Dear Senator Bromley and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated the following for appointment to the Midcoast Regional Redevelopment Authority:

Gary Brown of Topsham
Heather Collins of Orrs Island
Beth Nagusky of Litchfield
Commissioner John Richardson of Brunswick

Pursuant to Title 5 M.R.S.A. §13083-I (2), these nominations will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beth Edmonds
President of the Senate

S/Glenn Cummings
Speaker of the House

READ and with accompanying papers **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

The Following Communication: S.C. 631

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

February 7, 2008

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 Judiciary has had under consideration the nomination of Jeffrey H. Moskowitz of Saco, for appointment as a District Court Judge.

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

YEAS	Senators	2	Hobbins of York, Hastings of Oxford
------	----------	---	-------------------------------------

Representatives 7 Berube of Lisbon, Bryant of
Windham, Casavant of
Biddeford, Dunn of Bangor,
Gould of South Berwick, Mills
of Farmington, Nass of Acton

NAYS 0

ABSENT	4	Rep. Simpson of Auburn, Rep. Dill of Cape Elizabeth, Rep. Jacobsen of Waterboro, Sen. Nutting of Androscoggin
--------	---	--

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jeffrey H. Moskowitz of Saco, for appointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#269)

YEAS: Senators: None

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

ABSENT: Senators: BRYANT, PERRY

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Jeffrey H. Moskowitz** of Saco for appointment as a District Court Judge 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 Jeffrey H. Moskowitz of Saco. Would he please rise and accept the greetings of the Maine Senate.

At this point a message was received from the House of Representatives, borne by Representative PINGREE of North Haven informing the Senate that the House concurred with the proposition for a Convention of the two branches of the Legislature to be held in the Hall of the House at 11:00 in the morning for the purpose of extending to the Honorable Shawn Graham, Premier of New Brunswick, to attend the Convention and make such communications as pleases him.

The Following Communication: S.C. 632

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

February 6, 2008

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 Judiciary has had under consideration the nomination of Susan A. Sparaco of Farmingdale, for appointment as a District Court Judge.

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

YEAS	Senators	2	Hobbins of York, Hastings of Oxford
------	----------	---	-------------------------------------

Representatives	9	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Gould of South Berwick, Mills of Farmington, Nass of Acton
-----------------	---	---

NAYS	0	
------	---	--

ABSENT	2	Rep. Jacobsen of Waterboro, Sen. Nutting of Androscoggin
--------	---	--

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Susan A. Sparaco of Farmingdale, for appointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

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

Senator **MILLS:** Thank you, Madame President. I rise just briefly to say that I think too often we in the Minority are quick to criticize the Governor and find fault with many of his appointments. I wanted to say that this particular round of judicial appointments, and he's had the pleasure of nominating many people in the last several days, have been truly extraordinary. I just thought it would be nice to stand up and say the Governor did a good job with these appointments and those of us in the bar appreciate high quality people on the bench. This round of appointments have been exceptional.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#270)

YEAS:	Senator:	SHERMAN
-------	----------	---------

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

ABSENT: Senator: BRYANT

1 Senator having voted in the affirmative and 33 Senators having voted in the negative, with 1 Senator being absent, and 1 being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Susan A. Sparaco** of Farmingdale for appointment as a District Court Judge 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 the Honorable Susan Sparaco of Farmingdale. Would she please rise and accept the greetings of the Maine Senate.

The Following Communication: S.C. 633

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

February 6, 2008

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 Judiciary has had under consideration the nomination of Honorable Andre G. Janelle of Saco, for reappointment as a District Court Judge.

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

YEAS	Senators	3	Hobbins of York, Hastings of Oxford, Nutting of Androscoggin
------	----------	---	--

Representatives	10	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Gould of South Berwick, Jacobsen of Waterboro, Mills of Farmington, Nass of Acton
-----------------	----	--

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Andre G. Janelle of Saco, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#271)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, 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

ABSENT: Senator: BRYANT

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Andre G. Janelle** of Saco for reappointment as a District Court Judge was **CONFIRMED**.

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

The Following Communication: S.C. 634

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

February 6, 2008

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 Judiciary has had under consideration the nomination of Honorable Paul A. Cote, Jr. of Auburn, for reappointment as a District Court Judge.

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

YEAS	Senators	3	Hobbins of York, Hastings of Oxford, Nutting of Androscoggin
	Representatives	9	Simpson of Auburn, Berube of Lisbon, Bryant of Windham, Casavant of Biddeford, Dill of Cape Elizabeth, Dunn of Bangor, Gould of South Berwick, Mills of Farmington, Nass of Acton
NAYS		0	
ABSENT		1	Rep. Jacobsen of Waterboro

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Honorable Paul A. Cote, Jr. of Auburn, for reappointment as a District Court Judge be confirmed.

Signed,

S/Barry J. Hobbins
Senate Chair

S/Deborah L. Simpson
House Chair

READ and ORDERED PLACED ON FILE.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#272)

YEAS: Senators: None

NAYS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, 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

ABSENT: Senator: BRYANT

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Paul A. Cote, Jr.** of Auburn for reappointment as a District Court Judge was **CONFIRMED**.

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

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

PAPERS FROM THE HOUSE

Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Pamela Morrill, of Gardiner, Committee Clerk for the Joint Standing Committee on Health and Human Services and former Committee Clerk for the Joint Standing Committee on Education and Cultural Affairs. Pam was a loving mother, daughter and partner. She loved politics and was loyal to all legislators, regardless of party affiliation. Her cheerfulness and energy will be missed by all who had the pleasure of knowing her. We acknowledge her dedicated service to the State of Maine. She will be greatly missed and long remembered by her partner Ike, her loving family, her colleagues and her many friends;

HLS 1000

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

READ.

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

Senator **RAYE:** Thank you, Madame President. I beg the indulgence of my colleagues. As you can tell, my voice is not up to par. Pam Morrell was a good and trusted friend to legislators and staff alike. Her service in State Government goes back two decades. In 1988, 20 years ago, Pam ran for the Maine Legislature herself, seeking a seat to represent her hometown of Augusta. Pam's energy and ability demonstrated in that campaign caught the attention of then Governor Jock McKernan. After the campaign he hired Pam as a Special Assistant to the Governor for Constituent Services. It was a wise decision. She became an integral and invaluable member of his team, eventually serving as Deputy Press Secretary. It was through her work for Governor McKernan that I first got to know Pam. At that time I was the State Director for then Congresswoman Snowe. Pam and I used to joke that this made us staff-in-laws. Often we found our offices working on the same cases. Many of those were tough cases where you had to help Maine citizens break through the bureaucracy and red tape and fight the system. What a fighter Pam was. She was someone you wanted on your side.

She was also a proud Republican, but as proud a Republican as she was Pam had that wonderful ability, so often lacking in the politics of our time, to put partisan politics aside when the election was over. Loyalty was engrained in her, so once she was hired to work for the Legislature, first for the Education Committee and most recently for the Health and Human Resources Committee, she was totally nonpartisan and she was loyal to each and every one of us, Republican, Democrat, or Independent. She forged strong friendships based on mutual respect with everyone she worked with. I know I speak for everyone on our committee when I say how much we valued her work ethic, her grace under pressure, her loyalty, her friendship, and her ever-present sense of humor.

On behalf of a grateful State of Maine that she served so well, and especially on behalf of the Health and Human Services Committee, her fellow clerks, and the many people of various capacities in the State House, we are grateful that she was a part of our lives. Even as we grieve her passing we pause to give thanks to God for sharing her with us. We will keep her in our hearts. We will remember and take inspiration from her strong spirit. We will take comfort from the memory of her warmth and

her smile. We know that we will meet again some day. My heartfelt sympathies go to Pam's wonderful daughter, Sarah; her son-in-law, Rob; her parents, Fred and Lucille Merrick; her life partner, Ike; and her many loving friends. May God bless Pam Morrill. Thank you.

ADOPTED, in concurrence.

THE PRESIDENT: The Chairs is pleased to recognize in the rear of the Chamber Sarah Morrill and her husband, Robert Cocchiaro; Fred and Lucille Merrick, Pam's parents; Tom and Ruth Merrick, Pam's brother and sister-in-law; Bonnie Merrick, Pam's cousin; Ike McLaughlin, Pam's partner; Tracy Shaw, Ike's daughter; and Isaac McLaughlin, Jr., Ike's son. Would they please rise and accept the sympathy and respect of the Maine Senate.

The Following Communication: S.C. 629

**OFFICE OF THE PREMIER
NEW BRUNSWICK, CANADA**

February 1, 2008

Beth Edmonds
President of the Senate
The Maine Senate
3 State House Station
Augusta, ME 04333-0003

Glenn Cummings
Speaker of the House
Maine House of Representatives
2 State House Station
Augusta, ME 04333

Dear President Edmonds and Speaker Cummings:

Thank you for your kind invitation to address a Joint Convention of the 123rd Maine Legislature. I'm particularly pleased with the friendship and the cooperation that is building between the State of Maine and the Providence of New Brunswick. On February 12th, I would be pleased and honored to address the Maine State Legislature. I look forward to meeting you both at that time.

Yours truly,

S/Shawn Graham
Premier

READ and **ORDERED PLACED ON FILE.**

The Following Communication: S.C. 630

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

January 31, 2008

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

Dear Madam President and Mr. Speaker:

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

Sincerely,

S/Senator Ethan K. Strimling
Senate Chair

S/Representative John L. Tuttle
House Chair

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

SENATE PAPERS

Bill "An Act To Improve the Operation of 'Texas Hold 'Em' Tournaments"

S.P. 849 L.D. 2206

Sponsored by Senator SCHNEIDER of Penobscot.
Cosponsored by Representative PATRICK of Rumford and Senator: MARRACHÉ of Kennebec.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **MARRACHÉ** of Kennebec, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Diminish Global Warming"
S.P. 850 L.D. 2207

Sponsored by Senator STRIMLING of Cumberland.
Cosponsored by Representative FINLEY of Skowhegan, Representative EBERLE of South Portland and Senators: BARTLETT of Cumberland, President EDMONDS of Cumberland, MARTIN of Aroostook, Representatives: BABIDGE of Kennebunk, DUCHESNE of Hudson, KOFFMAN of Bar Harbor, MIRAMANT of Camden, WAGNER of Lewiston.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator **MARTIN** of Aroostook, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator DIAMOND for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Blended Sentencing for Certain Juveniles"

S.P. 691 L.D. 1897

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-415)**.

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

READ ONCE.

Committee Amendment "B" (S-415) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House

Bill "An Act To Designate Certain Rules Proposed by the Board of Pesticides Control as Major Substantive Rules" (EMERGENCY)
H.P. 1560 L.D. 2190

Bill "An Act To Designate Certain Application and Licensing Information Provided to the State Harness Racing Commission as Confidential" (EMERGENCY)

H.P. 1561 L.D. 2191

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

House As Amended

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
(C "B" H-668)

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

Senate As Amended

Bill "An Act To Clarify Maine's 'Do Not Call' Laws"

S.P. 783 L.D. 1989
(C "A" S-413)

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

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Extend the Deadline for Applications for Loans Associated with the Remediation of a Waste Oil Site in Plymouth
S.P. 743 L.D. 1933

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Amend the Charter of the Norway Water District
H.P. 1460 L.D. 2076

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Promote Tourism in Maine and the Purchase of Products Made in Maine

S.P. 753 L.D. 1959

An Act To Create Consistency in the Authority of the Public Utilities Commission To Provide Tariff Exemptions

H.P. 1444 L.D. 2060

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

An Act To Strengthen the Scientific Research Support Capability of the Maine State Museum

S.P. 209 L.D. 672
(C "B" S-403)

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Ensure Adequate Funding for Conservation Districts"

H.P. 1573 L.D. 2203

Comes from the House, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed.

REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Further Clarify Worker Payments for Clothing and Equipment"

H.P. 1574 L.D. 2205

Comes from the House, **REFERRED** to the Committee on **LABOR** and ordered printed.

REFERRED to the Committee on **LABOR** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Promote the Use of Safer Chemicals in Consumer Products"

H.P. 1577 L.D. 2210

Comes from the House, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Amend the Laws Governing Commercial Vehicles"
H.P. 1572 L.D. 2204

Bill "An Act To Amend the Axle Weight Laws for Trucks Transporting Unprocessed Agricultural Products and Forest Products" (EMERGENCY)

H.P. 1576 L.D. 2209

Come from the House, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed.

On motion by Senator **DAMON** of Hancock, **REFERRED** to the Committee on **TRANSPORTATION** and ordered printed, in concurrence.

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

PAPERS FROM THE HOUSE

Pursuant to Statute

Department of Agriculture, Food and Rural Resources

The **Department of Agriculture, Food and Rural Resources**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 29: Standards for Water Quality Protection, Section 6, Buffer Requirement, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control. (EMERGENCY)
H.P. 1578 L.D. 2211

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

After Convention

In Senate Chamber

Senate called to order by the President

ORDERS OF THE DAY

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

JOINT ORDER - Directing the Joint Standing Committee on Health and Human Services to report out, to the Senate, a bill regarding parental consent to dispense prescription drugs to children

S.P. 842

Tabled - February 12, 2008, by Senator **MARTIN** of Aroostook

Pending - **FURTHER CONSIDERATION**

(In Senate, February 5, 2008, on motion by Senator **SMITH** of Piscataquis, **READ** and **PASSED**.)

(In House, February 7, 2008, **READ** and **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.)

Senator **SMITH** of Piscataquis moved the Senate **INSIST**.

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 brief word. We had a very good vote on this the other day. I don't want to take the time of the Senate. I hope that we can repeat it today. This is really a matter to take to committee. We had no substance that we are putting before the committee except this order to report out a bill on the subject matter. It is a matter of great concern and interest to hundreds of thousands of families across this state, and as far as I'm concerned, is a matter of parental control in this matter. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I did not speak the last time, so I am compelled to raise a couple of important points as we consider this legislation. I find it sort of amazing that there are folks all over the state who are deeply concerned about this as a pressing issue that must be dealt with during this session. I want to make sure people understand a few basic facts about what's going on in Portland. We're not dealing with a situation where schools or a school nurse is coming in and randomly prescribing birth control. What we are talking about is a clinic, a health clinic, that has to be located in a school to service students. Parental consent is required before anyone can use that clinic. Parents are aware. For those who are concerned about their children having access to various services, they have an option not to sign that consent. In other words the folks in that area, that school district, have decided to respect the rights of those parents who don't want their children to have those services. What we are embarking on today is a lack of respect going the other direction; recognition of those folks, those parents, who feel like their children ought to have access to certain critical services. There are lots of reasons. We don't need to go through them. A few examples could be somebody where there could be a domestic abuse situation at home and there is a concern that the child would not be comfortable coming to them. You have folks from different cultures who may feel it is better for the child not to have to go through parental consent. There are all sorts of reasons why a parent might consent to allowing a child to use that clinic of their own free will. I think it's important that we respect all parents in the state and respect local school boards and the authority they have to set local policy. I

think we are heading down a very dangerous road if the Legislature rushes in to take action on an emergency basis any time a local school board makes a decision we might not make in our own school districts.

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

Senator **ROSEN:** Thank you, Madame President. I just would like to remind the members here that one of the things that we do when reporting forward a Joint Order or referring a bill to a committee is to allow the committee to, in fact, listen to testimony and do its work rather than having the members of this Chamber behave as a Committee of the Whole. It's a simple reminder that this is a Joint Order to authorize the committee to report out a bill.

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

Senator **BRANNIGAN:** Thank you, Madame President. I'd like to speak again about respect, respect for our committee. I think that this is not allowed in by any leaders. It's not allowed in by anybody. We're asked to allow it in. We should not allow it in. Our committee is choked up. We are scheduled just with what we've got now. Totally scheduled. We're going to have \$99 million in cuts, \$33 million more in our area that we have to deal with. We haven't dealt with the first \$100 million. You are not respecting us if you let this in. You are giving us a task that we will not be able to do. I don't know when we would even have a hearing. Our hearing schedule is full. Our work session schedule is full. Unless you get special permission from the Presiding Officers, I'm not sure that we'll be able to have a hearing. This is just not the way to do business. All of you could say that you've got this important thing, put in an order, and give it to that committee. I beg your pardon, I would like a little respect for our committee. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. Going along with what the distinguished Senator from Cumberland, Senator Brannigan, just said, I would say the law has been on the books for over 30 years. What is the emergency? Thank you.

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

Senator **RAYE:** Thank you, Madame President. I just want to rise as I have a message I want to croak out to you. I share the Senator from Cumberland, Senator Brannigan's concern about the heavy workload in our committee. We have extraordinary challenges laying ahead of us. However, I do not subscribe to the opinion that it is disrespectful to our committee to ask us to hold hearings and work on a bill that will be of our choosing in terms of how the bill is structured on an issue that is of grave concern to many people. I want to say that I rise a pro-choice Senator. This is not, in my view, an issue that falls easily along the lines of pro-choice and pro-life. This is an issue that cuts across that. I do think it is a concern to a great many Mainers and I think that we

have a responsibility to at least debate it, consider it, and work our will. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Piscataquis, Senator Smith, to Insist. 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 (#273)

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

NAYS: Senators: BARTLETT, BRANNIGAN, BROMLEY, MARRACHE, MITCHELL, ROTUNDO, STRIMLING, THE PRESIDENT - BETH G. EDMONDS

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **SMITH** of Piscataquis to **INSIST, PREVAILED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (1/29/08) Assigned matter:

Bill "An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects"
H.P. 458 L.D. 591
(C "A" H-635)

Tabled - January 29, 2008, by Senator **MARTIN** of Aroostook

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED, in NON-CONCURRENCE**

(In House, January 22, 2008, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, January 24, 2008, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-635) **READ** and **ADOPTED**.)

(In Senate, January 29, 2008, **READ A SECOND TIME**.)

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

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I would urge you to vote against the passage of this bill. As we sat on the Prosperity Committee these past months one of the things we heard over and over again was that we were over regulated and that the businesses of the state of Maine needed us to back off. This is the first real debate that we have actually had and comes right to the point that the businesses were trying to make. You need to know that employers who are putting people out on jobs pay some of the highest Workers' Comp premiums in the state, surpassed only by working in the woods or perhaps on a fishing boat. Every time someone is injured the employer pays an increased amount for the whole payroll for a period of at least 3 years for each industry. It behooves every employer to train and watch out for the safety of their employees. It comes down to real dollars and cents if an employee is injured. There is no way that you can make a person more responsible for their employees by putting an extra burden, like this 10 hour course, on them except to create another bureaucratic hurdle for them to jump over. They already work very hard. In fact, at the time that this was filed the State of Maine was seeing a decrease, a significant decrease, in the number of injuries that were happening on job sites. This bill is not necessary. It's not wanted. It's just going to do the opposite of what we promised the businesses of the state of Maine. We promised we would not burden them any more and that we would allow them to start being able to manage their businesses and somehow not do it with the Nanny State holding their hand. I would appreciate it if you would oppose this motion before you. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of this motion. Just as a reminder, we passed this a few weeks ago. Although I certainly have heard the term Nanny State used about Maine, I have never heard it used about New Hampshire, who actually has the exact same law in place. It seems to work very well over there. The State will come in and do this training for you for free if you want it. People can do it on-line. It has become a very easy system. Safety is, of course, the number one concern for us on the Labor Committee. We have all kinds of issues we deal with; whether it be wages, family medical leave, or retirement. Safety is always at the forefront. All we are doing today by passing this is joining the other New England states who have already put it in place. Again, the State will do it for you if you ask them to come in. Your employees can do it on-line. It is not a burden. In fact, even in the hearing, we did not receive anywhere near the amount of opposition that we have in the past because other states have passed it already, including, as I mentioned, New Hampshire.

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

Senator **PLOWMAN:** Thank you, Madame President. With a \$99 million shortfall, I would caution that nothing is free. The State has plenty to do and we are looking at making some very tough choices. I would let the employers do the training and the State, by the way, does not pay for the 10 hours training that goes on. That is to be incurred by the employer. That's 10 hours of time that must be paid for by the company. I always shudder a little when I hear that the State will come and do something for you for free. I'm sure that the fiscal note doesn't say free. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended. 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 (#274)

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, **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

Off Record Remarks

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

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

Off Record Remarks

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

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

On motion by Senator **MITCHELL** of Kennebec,
RECESSED until 4:00 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Laws Regarding School Funding" (EMERGENCY)
S.P. 741 L.D. 1932

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-410)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-411)** (3 members)

Tabled - February 6, 2008, by Senator **BOWMAN** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 6, 2008, Reports **READ**.)

Senator **BOWMAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-410)** Report.

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

Senator **BOWMAN:** Thank you, Madame President. I want to be very brief, that is my style. L.D. 1932 was originally introduced as the Department of Education bill to remove financial barriers to consolidation. We, in the Committee, called it the Department Bill. After numerous inputs and a lot of discussion, the Education

Committee enhanced L.D. 1932 so that instead of including about three impediments it came up with about ten points, some of which are technical, which would greatly facilitate school district consolidation. The Committee returned a 10 - 3 vote, 10 in the majority and 3 in the minority. It is very interesting, and should be noted, that the Minority Report included all that was in the Majority Report plus an add-on so that you could look and truthfully say that the points in the Majority Report were accepted unanimously by the Committee. I think I will leave it at that at this point.

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

Senator **WESTON:** Thank you, Madame President. Just a question of clarification. The Minority Report is identical. I believe there is one difference in the budget validation process. Am I correct?

THE PRESIDENT: The Senator from Waldo, Senator Weston, 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. The good Senator from Waldo, Senator Weston, is correct. There was considerable discussion about the budget validation process, which we all understand is a new process that was required by the law we passed last Spring that says all school budgets will have to go out to popular vote. I think that this proposition is burdensome as it may be to many of our towns and cities but it is a good thing to have in the law. The Majority Report suspends that requirement for one year and puts it into effect in about 15 months from now. It is pretty much the only place where I think I take issue with the Majority Report. I support the Majority Report and will be voting for it. I will also be offering an amendment to excise that particular deferral. It is true that there is a Minority Report that already does leave the current law in place, which means that there is a required budget validation vote in all towns this coming May or June. Thank you, Madame President.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Bowman to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-410) 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 (#275)

YEAS: Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, GOOLEY, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, ROTUNDO, SCHNEIDER, STRIMLING,

SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

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

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-410)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-410) **READ.**

On motion by Senator **DAMON** of Hancock, Senate Amendment "D" (S-419) to Committee Amendment "A" (S-410) **READ.**

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm offering this amendment. It does two things to the afore acted Committee Amendment A. It changes the referendum date from November 2008 to January 15, 2009. That is the date by which groups of schools and towns have to vote that they will stay together and move forward in this whole initiative. It also allows, and this is an important piece, that a region may adopt a school union as an alternative governance structure. It is particularly important in some of the rural areas that I represent, and I suspect in some of the areas that you represent as well, that towns retain the control of their schools while at the same time working together in organized groups to have a single administrative head, a superintendent if you will, and to be able to have a core set of elements within which to work, including curriculums, etcetera. It also recognizes that the individual towns and their individual schools may negotiate with their instructors, with their teachers, and thus avoid the very real expense, in some instances, of being brought into a unified union contract or a unified SAD contract that they are not ready to assume. I offer this with a kind of mixed heart, having come from the education community myself and having worked hard to raise the incomes of teachers. I now am recognizing the difficulty that communities may face as they wish to raise the teachers' salaries but they can only do that at the pace that they can afford and not by some artificial pace that may have been set upon them by neighboring towns with whom they have chosen to partner. I'm referring to this, and perhaps you will too, as a bolt on amendment to the Committee Amendment A and I would urge your support and its adoption. Thank you, Madame President.

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

Senator **MILLS:** Thank you, Madame President, men and women of the Senate. If I might be permitted a few words in opposition to the pending motion. There was a tremendous amount of tension in the Education Committee about how to respond to the very legitimate concerns of municipalities who are accustomed to

managing their own schools, hiring and firing their own teachers, and basically running the shop as many of them have been for over a hundred years. The bill that we passed last year said, based on all of the best evidence available to us, that we should strive as a state to achieve a system whereby school units would typically have 2,500 students in them unless there is some exigency of geography or isolation that compels the smaller unit. This past Winter we have been dealing with the reaction to that policy formulation that we sent out to the state by a 2/3 vote of both chambers last Spring. I think it's troublesome. I think I said last year, last May, that it was time to go home and take our medicine. This was going to be an unpopular thing. That imposing directives from Augusta is never pleasant. This effort at consolidating districts and removing duplications in administration and providing for such things as transportation planning, special education, contract negotiations, the hiring and firing of personnel, personnel policy, and all of these things and it was time to get to the point of saying that these things must be done in some central way because there are economies of scale that have been recognized by the data that has been flowing in, and believe me we've been collecting data on these issues for many decades now, and the data points in one direction.

I, myself, had written a bill about a year ago at this time that said that we should do this the way Sinclair did and create some powerful economic incentives for towns to come together and to have some direction from the State Board or the State Commissioner but do it through incentives because those are nicer. People respond better to carrots. My views were not adopted and the bill that most of us voted for last Spring did, or tried to accomplish those same goals, through direction and through penalties if there is noncompliance to State policy. Not my favorite way of going about things, but I believe, as I think others do in this room and in the other Chamber, that the goals to be achieved are necessary if we are going to get control over the cost of education. We are at the point right now where we, in response to the MMA referendum that passed in June 2004, are struggling to achieve the final leg of four and on route to supplying the K-12 system with something like one-quarter billion dollars of money in added subsidy over what the levers were three and a half years ago. We haven't raised taxes, except on cigarettes, to do it. As a result, we have pulled the rug out from under the safety net from our most vulnerable people in Maine. We have done, and are in the process of possibly doing, considerable damage to those who are the most dependent people in the state of Maine.

I have always looked at State Government as having two big cost centers. Aside from transportation and some of the others, you've got K-12 on the one hand and you have social services on the other. In the social services arena there is no fall back. The State supports those services or they are not provided. It used to be we had town farms and we had municipal supports and extended families and all of that. That was 100 to 140 years ago. Today the sole source of support for our most vulnerable population is the State with some assistance from the Federal Government. In the K-12 arena we still have management at the local level. A lot of local school boards and superintendents come here and complain that there are too many State and Federal mandates, that they don't have this level of control, and ask why are we trying to run their school districts. The fact remains that the hiring and firing and purchasing of fuel and the buying of insurance and all of that is still done at a regional level and the State, itself, does not provide direct control over those

functions and services. What we do is act as funding agents. We're the fiscal agents now being called upon to supply more than half of the costs, all of the pension costs, and all of the health insurance costs for retirees to the extent that they are supplied from a public source. We've got to get a hold of these costs. I don't particularly care for the way in which we did it last Spring. I think there are deficiencies in that method. I think it was not politically astute to do it by means of mandates and penalties. That's the road we elected to travel. My concern about the pending motion is that it is tantamount to repeal of that effort that we undertook last Spring. We went through such pain to get that bill out of here, to create it in the first place, to put it out to the public and we did go home, all of us in this room went home, and we did take our medicine. I've gotten my share of complaints from around my district. Maybe some of you are fortunate enough to represent districts who don't need to consolidate. You have no mandates whatsoever. You are fat city, as they say. You are not burdened with the mandates of this bill. Well I'm not one of those folks. I had to go home and I still get e-mails from people complaining about how we did this. I share some of that. I respond typically by saying, 'Yes, this is not my preferred way of doing it but we've got to do something.' I'm just concerned that if we pass this amendment to the Majority Report we will wind up in a situation where all of this pain and this difficulty and this unpleasantness will come to not. It will erode the political work that we went through to pass the budget last Spring and it will leave us, frankly, with very little to show that we've achieved anything.

I realized there are those who will try to put into juxtaposition the Majority Report by talking about what an RSU is, with this report by talking about what a regional school union is. If you do a close textual analysis you will see they are very close. They are temptingly close. There is a reason for that. In the Majority Report we tried to stretch the RSU to a point where we gave the greatest level of accommodation to municipal government, to municipal schools, without crossing the line of letting them remain as free standing school units with legal reporting authority to Augusta. I can represent to you that the RSU, as it is described in the Majority Report, is stretched, I think, as far as we can go to still accommodate those local and municipal needs or desires. My problem with the motion that lies before you is that it steps over that line. It basically says that the local school, the local town, can hire and fire its own teachers, and it can engage in its own contract negotiations, maybe using the services of the union but nevertheless it will have its own contract. There will be different salary scales within the same school RSU but each member of the RSU will be entitled to its own salary scales. There are exceptions here for the calendar. You can have your own calendar that may differ from the rest of the school unit. There can be variations in policies adopted at the municipal level. All of these things build up to a point of saying that there will be, in the end, more school units rather than fewer. Why? Because you will have the regional unit and you will still have all of the subunits. You will actually have more units than we had before. We will have spreadsheets. We now have 290 lines on the spreadsheets, I think. Look forward to even more if we pass this version. I deeply respect the concerns and the sentiments that we heard expressed from places like Mt. Desert Island but, frankly, this legislature has come a long way down a lonely and difficult path. Many of us have paid a steep political price to be where we are right now. I think it would be a shame to retreat from this position. Thank you very much, Madame President.

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

Senator **ROSEN:** Thank you, Madame President. The home of repeal is in a neighborhood that the good Senator from Hancock and I share. For many of the supporters of that effort, I have also heard recently that it would be a good idea to support this amendment. I am trying to, first of all, understand the amendment and understand its implications because the legislature was accused by many of the same people during the summer and fall that the bill that passed and became law has been difficult to understand and difficult to work with. We have before us an extensive and complicated amendment that has not gone through the complete committee process, hasn't had the opportunity for detailed examination, and is barely dry because even though I've been hearing a lot about it, with phone messages and e-mails, I haven't had an opportunity to actually read the document until very recently. Now the challenge is to absorb and understand it because the last thing I want to do is to support something that ends up being implemented and then is more complicated and more difficult and more cumbersome. I have one basic fundamental question and that is trying to understand how a budget is developed and how a budget is passed under this amendment. It isn't clear to me and I don't see it laid out and spelled out in the amendment. We have a modified RSU unit that has powers and abilities and opportunities to perform certain functions. We have new local municipal units that are free and independent and can generate their own budget. How do those integrate? How, for instance, will the local unit know what portion of the RSU budget it is supposed to accommodate and be responsible for? How is the local budget adopted? How is the global budget adopted? I don't see anything that addresses that issue in the amendment so I'm assuming it must fall back on existing law. The existing law does not accommodate this. Again, as we discussed this morning in another issue, we have become a Committee of the Whole when it comes to extensive proposals like this and I just want to make sure I understand.

THE PRESIDENT: The Senator from Hancock, Senator Rosen poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President and ladies and gentlemen of the Senate. Thank you for your debate and your concerns. I'll try to address some of them now. I want to stress to the members of the Body that the amendment that I have offered still proposes that we have 80 superintendents of schools throughout the state. I might add that it was my understanding that this is what was part of the driver of this whole initiative. We were going to cut down on the amount and the number and the expense of administrators throughout the state of Maine. I recognize that in the county of Washington, a county next to my beloved county of Hancock, there was some 4,300 or 4,500 K-12 students enrolled in that county and yet there were 7 superintendents of schools. In a northern county, the county of Aroostook, the crown of Maine, there was some 11,000 students and yet there were 20 superintendents of schools. I thought, by all stretches of my imagination, that we could administer those number of students with far fewer superintendents and so I

supported the initiative. I still support that portion of the initiative. When it comes to now having a bill, albeit, that has been worked and worked and reworked, that will still have an impact on an individual community and its ability to have its school I have to draw the line. This amendment does not stray from the concept of having 80 superintendents of schools as administrators. It does not stray from the concept of having 2,500 as the enrollment target in those RSUs. It does all of those things yet it allows for a community to retain part of its heart. In the rural communities of Maine in particular there are public buildings and public entities that are important for the continuation of a community. They are a school and a church and a post office, perhaps a library and a gathering place. That's part of community. To be able to strip that apart, pull those threads out, is a threat to that community that I can't stand here and tolerate. I want you to think about that. There are small towns in this state, as well as larger communities. They, the small towns, are very susceptible. Why do you think we have an exception in this rule that exempts out, for instance, island communities? It's because they are so fragile and so frail that to pull one of those threads can, in deed, lead to the collapse of that community.

To the point that the good Senator from Hancock, Senator Rosen, raises with regards to adopting of the budget. Let's see if I can get to that for a minute. I'm going to use the example that is closest to home, in fact it was home until I moved off the island, and that is the four municipalities that are located on Mt. Desert Island. Each of them has their own K-8 elementary school. Each of them had their own high schools. It took 30 years for a combined communicative effort to bring those four high schools into one consolidated high school, which we presently have and are very proud of on Mt. Desert Island. The budget process is such that each of those communities, with its school board, presents, formulates, and votes on its own budget for its K-12 school. Each of those four communities has a proportional share and a representation into the high school. That was developed by an agreement of those communities. I suspect that it's based on population as well as valuation. The point is that it is agreed to by those communities and was not forced down their throats. They live within that budget and when that budget is presented and voted on at the high school it's a union wide budget and people come and voice their support or their opposition and cast their votes. Also, I might add, we're not suggesting in this amendment or in Committee Amendment A that this budget validation piece be stripped out. I think that's an important note. That is the way that it works there and I suggest that it's a way that it can work anywhere that chooses to have a school union governance rather than a SAD governance. They are very close. It's a matter of who owns property in the town, who owns the school, and who can make those decisions. Who can make the decisions to keep the school open or close them? This may hit closer to home and I think that many of you will agree that those decisions made closer to home are better than those made afar, whether afar means at the SAD office or whether afar means here in Augusta. It's a very important issue.

Notwithstanding the good Senator from Somerset, Senator Mills' concerns, it does not, in my opinion, weaken substantially the efforts that we have strived to move forward in this very complicated bill. I would urge you again to make those considerations and to add the opportunity for this amendment to be adopted to Committee Amendment A. I want to share with you that in a regional school union it must perform certain core functions that include the employment of a superintendent, the

performance of all business functions, special education administration, transportation administration, adoption of a core curriculum, and all State and Federal reporting. It must do that. It doesn't obviate them from doing that. The regional school union is formed in the same manner as a regional school unit by means of a reorganization plan prepared by a reorganization planning committee. Sound familiar? It should. It's the same thing that happens now with the approval of the Commissioner of Education and approval at referendum. Regional school unions are subject to the same requirements as regional school units with respect to the minimum number of students, exceptions to minimum number of students, and the timelines for the submission of reorganization plans, operational date, and applicable penalties. School administration units that form a regional school union become 'local education units' or LEU with no further responsibilities for the administrative functions, which are taken over by the regional school union. It is an option and it is a viable option, and it is a necessary option, and I would urge your support. Thank you, ladies and gentlemen.

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

Senator **RAYE:** Thank you, Madame President. I will, of necessity, be uncharacteristically brief as a result of the laryngitis that the Senator from Cumberland, Senator Turner, wished upon me. I rise to say that I agree with the Senator from Hancock, Senator Damon. I appreciate the arguments that he's made here on the floor. They are the same arguments that many of us made at the time this law was passed last year. If we were to use labels for the measures before us of good, better, and best, I would consider this amendment good. It certainly will be an improvement to the law that has wreaked such havoc in so many of our districts across the state. It will provide an important option that will be welcome in many corners of the state, including my own. I will be voting with the Senator from Hancock, Senator Damon.

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

Senator **ROSEN:** Thank you, Madame President. The sentiments expressed by the Senator from Hancock, Senator Damon, regarding the importance of the school building and the identity to community and the affection to the local school and its staff and students I think are shared by every one of us. We all realize how important they are to every community in the state. The mundaneness of my question and my concern really is sincere and is missing in this amendment. I do not see a mechanism provided for the development and passage of a budget. The Senator from Hancock, Senator Damon, described the current mechanism in law available to the union structure. I understand that. I understand the current mechanism available for SAD, SAD through municipalities and also the mechanism that was put in law last June for the development of these new RSUs. It is absent in this amendment. To have this go forward and to then have the community pick up the phone and call the Department of Education to ask how to develop a budget, pass a budget, or incorporate this new RSU into their newly created municipal unit. It is important that we spell these components out, particularly when these are questions and issues regarding how decisions are made that relate to spending and local budgets.

This is a deficiency in the amendment. It is in no way an expression of disagreement around the desire or the sentiment that brought the amendment forward in the first place. We cannot let an initiative go forward if it does not clearly address budgeting and the approval process.

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

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 Cumberland, Senator Turner.

Senator **TURNER:** Thank you, Madame President. Well, I'm surprised everyone hasn't spoken but I thought I would get in line, especially since my good friend from Washington, Senator Raye, may not be able to respond. A rare moment that I must take advantage of.

I want to take you back a year to our discussions around school administration consolidation. At that time the discussion surrounded a very simple fact, we are out of money. With the delivery of the promise of 55% local share from the State, we met the obligation that the voters imposed upon us back in 2004. The good Senator from Somerset, Senator Mills, said the right way to have done this was with incentives and make it positive. In fact, when the Sinclair Act went forward 40 or 50 years ago, I think 50 years ago, they did use incentives. At that time the State was literally drowning in money and had the opportunity to push money out and make the incentives possible. We don't have that luxury today, we are out of money. I'm fond of quoting a somewhat dated taxpayers survey of Maine that talked about the cost of State and local government being the highest on a per capita basis of any state in the Union. The interesting dilemma that you have when you strip the numbers away a little bit, and take out local, Maine drops from number one in those numbers down to 17. We've had a structure in place for government, and I include local education as part of that, for a long time that is no longer meeting the efficiency needs of the State. I would suggest to you it also does not meet the educational needs of our students. I believe if we allow the school union structure to be resurrected we will allow administrative costs to continue unabated and we will go the only place left, which is into the classroom, and strip away those costs to maintain an administrative structure that we can no longer afford.

All of you have seen the same numbers that I have. At every size level the school union structure costs more on a per student basis than the SAD structure or the other alternatives that had been in law. When you get down inside those numbers yet again and look at administrative costs, our administrative costs are out of line with the rest of the country and we have higher administrative costs. You don't have to be a rocket scientist to figure out why. Our student population has continued to decline and as it has declined we have added the administrative burden. We are adding dollars not in the classroom but outside the classroom at a time when we need to be putting the money into the classroom where that precious resource needs to go. I believe if you support the amendment proposed by the Senator from Hancock, Senator Damon, you are taking us back very much in the wrong direction and I would urge a vote against his amendment. Thank you very much, Madame President.

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

Senator **BOWMAN:** Thank you, Madame President. I have two comments. I believe that my colleague, the Senator from Hancock, Senator Damon's amendment does provide the proper governance for achieving cost efficiencies if it is properly done. Secondly, on the budget process, I believe that the current statute and the Committee Amendment A address issues regarding the budget.

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

Senator **RAYE:** Thank you, Madame President. The Senator from Cumberland will be disappointed to know I found my voice. I felt I had to rise to counter the argument that my good friend from Cumberland made with respect to school unions and costs because an examination of the per student cost of school unions versus SADs will show that the reason there is a higher per student cost in school unions is because they spend more money in the classroom. It is a local decision that they make with respect to the quality of education. They spend more money in the classroom. The cost of administration in a school union is not higher. In fact in many instances of school unions and SADs of similar sizes the percentage spent in system administration is lower in school unions. I think we have to stop painting with a broad brush and we have the responsibility to look inside those numbers and understand where the costs are. Thank you.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to be supporting this amendment. I think in the end, if this amendment is adopted, it's probably the only way that I then can go on and support L.D. 1932 at all. To me this is simply just another option for districts to consider. I know pitchers and catchers start here on Thursday. To me this allows the school districts to kind of stay on second base, considering the option of how they are going to get home, but it doesn't allow them to go back to home plate. It gives them another option to consider. I think that is very valuable.

I think this also protects that small local elementary school. Much of the concern I've heard on last year's bill was that this big RSU school unit could vote to close the small elementary school by a 2/3 vote. Yes, the locals could then keep it open at their own expense. That is a huge concern all across rural Maine.

I'm going to be supporting this amendment. I think it doesn't change the budget development process at all. I agree with the good Senator from Washington, Senator Raye, on that. I think it just gives them another option to consider but it doesn't allow anybody to go back to square one. 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 can't help but talk a bit about history because I put in a bill better than 10 years ago in the Legislature to cut down the number of superintendents. I did start with having just one for

Aroostook County and that didn't go very far. I suggested four and that didn't help either. I had a tough time trying to make them understand that at some point in time it was going to be a problem. Now we're in a situation where we put this bill through last year to try to achieve administrative savings. I come from an area where the cost of education is substantially less per child than it is in most parts of the state. It is quite accurate that for the roughly 2,500 students there are four superintendents. Some of the superintendents end up being the Principal of the high school in addition to being the superintendent in order to lower the cost and try to figure out a mechanism to get to that, to solve that.

I'm a member of a school board and I'm also a member of this planning group that was created by law. I don't know who else is part of that group. I know the Senator from Kennebec, Senator Mitchell, also serves in that capacity. I want to tell you it is the most miserable job. I used to say being a member of the school board was the miserable. It's now been surpassed because we have close to 45 people sitting in a room trying to get to some solution. I can guarantee you it is impossible because in addition to where I sit, and who I represent, we have in it the town of Madawaska that has the second highest paid teachers in the state. Then I have next to them the town that is pretty much to the bottom. You have disparity and the fear in the smaller town that they are going to lose their schools because of this going on. I've thought and hard about what to do about this situation and I don't see the bill before us now solving that problem, nor particularly do I see the amendment that we have before us necessarily solving the problem. It is really a serious problem for us, especially since we aren't spending as much money on education as some of you are. Then I must admit that my frustration is that I don't see enough consolidation being done among the cities. I don't see Bangor and Brewer joining together. I don't see Augusta joining with anyone else. Lewiston and Auburn, heaven forbid they ever join together to have one superintendent. I doubt that. My communities are saying, 'What are you doing to us?' That's really a tough issue and question to answer.

I firmly believe that the St. John Valley, the area I represent, should only have one superintendent. I have believed that for the last 20 years. Nothing has changed there. I believe that we can do a better job with administration. I believe we can do a better job with special ed. I believe we can do a better job in transportation. I have no problems with those issues. I have a tough time saying that a super board is going to tell Van Buren that they can't have their own high school or Frenchville and St. Agatha or even Madawaska. That's my problem. Even though this amendment, right now the way it is drafted, doesn't solve my problem, after a great deal of thought I'm going to vote for it because it doesn't get to where I want to go but I don't see anything yet that gets me there. I may before we get out of here.

I posed the question to the drafter of the amendment, I need to know. The answers were the union board will approve the budget, the budget will go to the towns, the towns will adopt the budget through the validation process, and so there will be one vote. This is in the amendment. I can't quite find it the way that the drafter of the amendment says it is in there. I am willing at this point to move forward upon that assumption. I want to make it clear that it seems to me that the goal the Chief Executive had last year, the goal we had, was to cut administrative costs; not close schools, not eliminate teachers, but our goal was to cut administrative costs. That's been my goal for the last 15 years in this Legislature so that's where I'm going today.

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

Senator **DOW:** Thank you, Madame President. I'd just like to pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **DOW:** Thank you, Madame President. In the original bill that we passed last year the language was in there about what I will call the super school board would have the ability to vote to close a school in their that new district if they desired and the town had the ability to vote to say, 'No, we'll keep it open and we'll pick up the extra cost ourselves.' Has any of that been interfered with?

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

Senator **MARTIN:** Thank you, Madame President. I do want to respond to the question since I was involved in dealing with that issue last year. The bill that was adopted last year had a provision put in for elementary schools. The amendment that has now been put before us with Committee Amendment A by the committee today now provides the same thing for high schools. Now both of them are protected. The super board cannot close and if they voted to close it would have to go to the town in question. They could choose to agree or disagree and then if there were to be a difference it could be picked up by the local community or the group of two or three towns that are affected.

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

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I always wanted to be involved in a time machine and I think I am. I think I'm back to May or June of 2007. This is an interesting situation to be in. I'm still hearing the same things I heard in 2007, talking about the amendment that was given. Some of those questions have been answered. What we have here are statements like, 'I don't know how this is going to work,' 'I don't know where this is going to go,' and 'How do you do budgets and that sort of thing?' It gives me a queasy feeling to actually vote on this but I assume we are going to have to. I find myself in agreement, to some extent, with the good Senior Senator from Aroostook, Senator Martin. I think we had a bill at one time with three superintendents in Aroostook County, which made more sense to me, with a Northern, a Southern, and a middle. I'd like to speak very quickly to some of the numbers we've had thrown out here dealing with the RPC, Regional Planning Committees. I would cite that my son is an expert. He happens to be an accountant. He also is on the committee that looked at the finances. He reluctantly agreed to do that. He said he would only go on if he could be negative like his Father is. I thought that was a rather good perception by my son. The thing that sticks in my mind is that when he was done with the numbers, Monticello to Sherman Station which is about 55 miles, Houlton to Danforth which is 34 miles away, he said the Department of Education gave him a template to look at. The

template, in part, was about a \$24 million budget and the administrative costs were supposed to be around a little over \$1.1 million. When he was done he said the first thing he found out was the superintendents don't all put things under the same category. One superintendent could hide stuff here and there for negotiations and that sort of thing. The first thing they had to figure out if they were talking apples and apples or golden apples versus golden apples. When he was done he said, 'If you take Monticello to Danforth to Southern Aroostook, Sherman, Katahdin, the budget total is about \$24 million.' This is essentially what the DOE used as kind of a template for 2,500 students. He said to me, 'Dad, the administrative costs were a little over \$900,000, \$100,000 less than what the DOE was talking about.' His comment was, 'What is there to fix?' I think there are some things to be fixed with these unions. You could make it a little bit better along the pathway with a union model. As I see it you have very specific jobs, if you will, given to the superintendent of that model. I still think there are a lot of details to be worked out. I'm going to vote to support this amendment. We'll send it off to the other Body and they may have some other ideas as to what to do with it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Adopt Senate Amendment "D" (S-419) to Committee Amendment "A" (S-410). 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 (#276)

YEAS: Senators: BARTLETT, BOWMAN, BRYANT, DAMON, GOOLEY, HOBBS, MARRACHE, MARTIN, MITCHELL, NUTTING, PERRY, PLOWMAN, RAYE, SCHNEIDER, SHERMAN, SNOWE-MELLO, STRIMLING, SULLIVAN

NAYS: Senators: BENOIT, BRANNIGAN, BROMLEY, COURTNEY, DIAMOND, DOW, HASTINGS, MCCORMICK, MILLS, NASS, ROSEN, ROTUNDO, SAVAGE, SMITH, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **ADOPT** Senate Amendment "D" (S-419) to Committee Amendment "A" (S-410), **PREVAILED**.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **GOOLEY** of Franklin, Senate Amendment "A" (S-416) to Committee Amendment "A" (S-410) **READ**.

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

Senator **GOOLEY:** Thank you, Madame President. This has been very contentious with this education consolidation. I hate to call it a consolidation. There are some municipalities that have tried to identify with other communities and they found out in the end they are not even a donut hole. This amendment would seem to address a serious problem effecting very remote areas of Maine. There are only a few very remote areas. I know we have some in Western Maine, Northern Maine, Eastern Maine, and probably a few in between. This amendment allows a State approved unit of school administration that was responsible for operating public schools prior to the reorganization of school administrative units to serve fewer than 1,200 students if the area it serves has fewer than 100 residents per square mile. In addition to the exceptions provided by law to requirement that a school unit serve at least 1,200 students, the amendment provides that the Commissioner of Education, the Commissioner's discretion, may waive the 1,200 student requirement. Thank you very much.

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.

Senator **MITCHELL** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-416) to Committee Amendment "A" (S-410).

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

Senator **MITCHELL:** Thank you, Madame President and colleagues of the Senate. I have a great deal of respect for the good Senator from Franklin, Senator Gooley. The whole motions that we have been going through have tried to respect the 2,500 and the 1,200. There are occasions when you cannot reach that number and the committee put into that a waiver provision under certain criteria that the Commissioner can use. To back off to this number, which is based on something that is not clear to me. The numbers were not chosen just because we like 1,200 and 2,500. They were chosen because of research that showed the most effective and efficient school districts or administrative units were that size. I believe that this goes counter to what we've been trying to accomplish. I did support the other amendment, which tried to give a bit more flexibility, but that amendment did stick to the 2,500 and the 1,200. I would encourage you to vote to Indefinitely Postpone this amendment.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to Indefinitely Postpone Senate Amendment "A" (S-416) to Committee Amendment "A" (S-410). 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 (#277)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, HOBBS, MARRACHE, MARTIN, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BRYANT, COURTNEY, MCCORMICK, MILLS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, WESTON

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MITCHELL** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-416) to Committee Amendment "A" (S-410), **PREVAILED**.

On motion by Senator **RAYE** of Washington, Senate Amendment "E" (S-421) to Committee Amendment "A" (S-410) **READ**.

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

Senator **RAYE:** Thank you, Madame President. Very simply, this is a mirror copy of the Minority Report from the Education Committee. This will allow Senators to go on record in terms of how they feel about the report that the minority of the committee placed forward. I would urge people to support the adoption of this amendment.

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-421) to Committee Amendment "A" (S-410).

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

Senator **MARTIN:** Thank you, Madame President. This goes counter to the amendment that was offered by the good Senator from Hancock, Senator Damon, and we conflict with that amendment. I would urge you to vote for Indefinite Postponement.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Indefinitely Postpone Senate Amendment "E" (S-421) to Committee Amendment "A" (S-410). 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 (#278)

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

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

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-421) to Committee Amendment "A" (S-410), **PREVAILED**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "F" (S-425) to Committee Amendment "A" (S-410) **READ**.

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

Senator **MILLS:** Thank you, Madame President. This is a one-line amendment to strike out that paragraph of the Majority Report that would defer by one year the need for public referendum in our school districts. I bring a significant question whether it would be possible for this Chamber or the other to pass anything by 2/3 on this contentious subject but, frankly, unless it happens by 2/3 that delay won't take place anyway. I think that many of the people who voted for this issue last year and that voted for the budget that contained all of the school reorganization and reform, did so thinking to themselves, 'I have no idea whether any of this is going to save any money,' but there is one provision that is likely to. That is the provision that requires a public referendum for school budgets for the next three years. It seems to me it's high time that we put these budgets out to public referendum to test whether the voters in every town are standing behind the budgets that they are paying for. They are blaming us, many times, for the high property taxes that they are paying. What percentage of the property tax in general goes to education? 50%, 60%, 70%? I don't know. I think it's over half. Why not empower the voters everywhere in Maine to have a say in validating or approving or disapproving a school budget for this coming June? People will say, 'Look, oh they are facing so many questions because of this reorganization movement.' The truth is that this coming May and June the budget issue stands or falls on the basis of the structure as it currently exists. I think there is one, maybe two, new RSUs being formed. One actually for this coming June. Why not let the school budgets go out to public referendum this Spring based on the current organization? They are prepared to do it. It's been the law now for eight, nine, or ten months. It's too late for us to change it unless we can muster a 2/3 voter around the issue, which I suggest is nearly impossible. Let's put people on notice that they are going to be given a chance to vote on school budgets this Spring and put them out there and see what happens. That is what this amendment will do. It's the only thing it does. It simply preserves current law on this important issue. Thank you.

Senator **MITCHELL** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-425) to Committee Amendment "A" (S-410).

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

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. This amendment is not about whether or not you think people should vote publicly on validating their school budgets. It's a question of when. Many communities are still working out who their partners are and what things are going to look like. They have a very full plate. As the good Senator from Aroostook, Senator Martin, mentioned, I too serve on a Regional Planning Committee and it is hard work. We're working on the details of bringing many groups together. I am in favor of the referendum voting because people do need to understand existing, with no changes, stays in place, the cost centers so that when you vote either at a town meeting or at your municipal or school board level you will know exactly where the money is going. We have a new, very transparent, budget format. That will stay in place. I might suggest to you that you don't even know what the numbers for your next year's school budgets are going to be in addition to worrying about who your partners are going to be. Perhaps this is not the best year, given the tough economic times, to force yet one other difficult change on people. Ask your city clerks about their concerns about absentee ballots and many complicating factors. I would encourage you to continue supporting the idea of a referendum on the budget but let it wait until we get this bill in place, this law in place, then people can get their votes done in a way that is meaningful to them. As to the 2/3, I'm an optimist. I'm hoping that we can hammer out our differences and get this done because if we don't the debate that we are having is moot on this subject because they will have to go forward with the existing law. There are changes here that are important to all of districts, whether you are a city or a rural area, so we can think towards a 2/3 vote at the end. Please join me in voting for Indefinite Postponement.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. There is never a good time to take away the franchise of the voter. I would encourage you to oppose Indefinite Postponement. Giving the voter the opportunity to pass a budget that affects their property taxes, I think, is paramount.

Some of you were in this Chamber when we dealt with the referendum question to bring school funding to 55%. At that time many communities around Maine promised 85% of that new money would go to property tax relief. Show me the one community, if any, that actually delivered on that promise. In many cases it was 1/3 and in many cases it was less. When the Governor was proposing his budget for us in the beginning of the biennium he was adamant that property tax relief would flow from the additional funding that would go to the local aide to education. He tasked his Director of Planning, Martha Freeman, with crafting that language. She couldn't do it. Then it was suggested that a

clever fellow like the Senator from Somerset, Senator Mills, might be able to craft that language. He couldn't do it. In desperation we cast about and said, 'Let's find a Ph.D. Economist from Harvard and perhaps he can do it.' He couldn't do it either. The only way property tax relief is going flow is for the voter, locally, to decide if they want to stand tall and support a budget or not. The fool's chase is to look to the Legislature for property tax relief. We sent money down hill time and time again and it's been spent. You, me, Madame President, and others in the Chamber have been roundly criticized for not delivering property tax relief to the citizens of Maine. We can't do it. It can only be done locally by enfranchising the voter to decide on their school budget because, as the Senator from Somerset, Senator Mills, rightly points out, in some cases it's 70% and in other cases it's 80% of the municipal budget, in some cases it is less but it is a significantly large number. Many of your constituents have no say and they find out the day after the budget has been approved in a nice gymnasium meeting with the teachers where the parents rush in and do their vote. They ask, 'Where did my property tax relief go?' It's gone for another year. If you are looking for property tax relief for yourself and for your constituents then you need a budget validation vote now. I would suggest to you that the best thing that could happen to education in this state is to have a few of these things fail this Spring and wake up some of our education administration as to what the real cost being borne by our citizens is. I urge you to not Indefinitely Postpone the pending amendment offered by the Senator from Somerset, Senator Mills. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President. I request to submit a question through the Chair to anyone who may care to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you, Madame President. In the town of Windham we have a primary vote like there will be around the state on June 10th. We have our town meeting on 14th, the following Saturday, to set the budget that would then be sent out again, under this amendment, for a second vote. The question is, is that true? Am I interpreting that correctly? There would be a primary vote on June 10th and if this amendment passes we would have to have another vote the following week on the budget?

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

Senator **MILLS:** Thank you, Madame President. In response to the good Senator from Cumberland, Senator Diamond's question, I believe that the statute calls for a district meeting to precede the referendum vote so that there would need to be, in your case, not a town meeting but a district-wide meeting in advance of the June primary vote. The town meeting wouldn't have a relationship, I think, to that process.

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

Senator **DIAMOND:** Thank you, Madame President and members of the Senate. Windham is the town. That is the district. We have over 2,500 people. The question again is would they have to have a second local referendum vote?

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

Senator **MILLS:** Thank you, Madame President. No, but they would have to have a meeting about the school budget and they would have to have it in advance of the referendum vote. They have to have a specific meeting on the school budget, as I read this statute. You could have a nice little town meeting after the referendum but you need another meeting before the referendum.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Mitchell to Indefinitely Postpone Senate Amendment "F" (S-425) to Committee Amendment "A" (S-410). 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 (#279)

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

NAYS: Senators: BENOIT, COURTNEY, DOW, GOOLEY, MCCORMICK, MILLS, NASS, PLOWMAN, 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 **MITCHELL** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-425) to Committee Amendment "A" (S-410), **PREVAILED**.

On motion by Senator **RAYE** of Washington, Senate Amendment "B" (S-417) to Committee Amendment "A" (S-410) **READ**.

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

Senator **RAYE:** Thank you, Madame President. This amendment rises from a concern that I've heard from at least two municipalities in my district. It may be a concern in many of your districts as well. Currently in order for a municipality to opt out, accept the penalties, and move ahead they are required to go through the entire time consuming process of the RPCs, which we've heard described vividly by some members of this Body who

serve on their RPC, even though there may be very strong majority sentiment in the municipality that they want to opt out. They don't want to go through this entire process. Currently they have to get a plan approved by the Commissioner and take it through the entire process. This is very simple. It would allow them, through a referendum vote with a majority vote of the citizens at any point in the process, to opt out. I hope that this is something that we would do in order to restore an element of local control and urge that you would support the amendment. Thank you.

Senator **MARTIN** of Aroostook moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-417) to Committee Amendment "A" (S-410).

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

Senator **MARTIN:** Thank you, Madame President. This would basically provide for a town to vote to get out of the planning process. We want them to reorganize so it is the last thing in the world we would want to do is to withdraw them from the whole process. We may not like how they are going to do it, but my gosh, this moves in the total opposite direction and moves to a possibility of having 800 school districts.

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

Senator **RAYE:** Thank you, Madame President. I would remind my colleague from Aroostook, Senator Martin, that these municipalities are very painfully aware that the law holds severe penalties. This is not a decision that they would take lightly. However, for some towns it's a decision that they believe is absolutely vital to the future of their community and to education in that community. As long as the town and taxpayers of the town express willingness to accept the penalties that the Legislature and this Governor saw fit to impose, I don't know why we would want to second-guess them.

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

Senator **TURNER:** Thank you, Madame President. I do think the Senator from Washington, Senator Raye, makes a good point if, in fact, the community is well educated as to the options that are available to them. My limited experience in my district watching this work is that those directly involved in the process have a very acute understanding of the issues, but the general populous, however, is very often in the dark. I think without a process to go through and vet the various options available, having a good understanding of what the penalties are and the implications of those for the community at large, for the individual taxpayer it would be a mistake to opt out prematurely.

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

Senator **MARTIN:** Thank you, Madame President. I concur with the Senator from Cumberland, Senator Turner. I could understand if the question was posed to them correctly. If you ask my community, 'Do you want to get out of the planning

process?' the answer is going to be yes. However if you say, 'Do you want to get out of the planning process and the result is going to cost you \$25,000?' that's a different question. It is a little bit like what we went through with the extension of terms. 'Do you want to extend the term of Legislators from 8 to 12 years?' That is a simple solution. The answer is no. If you had said, 'Do you want to improve the efficiency of the Maine Legislature by going from 8 to 12?' you would have a different response. It's the same question here. Do you want to get out of the planning process? I can see my town voting yes. If you say, 'Do you want to get out of the planning process, and by the way, it's going to cost you that because you are not going to get the State money?' Answer reversed.

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

Senator **RAYE:** Thank you, Madame President. My colleagues have been successful at keeping me on my feet. I just want to say that I think it's a disservice to the people we represent to suggest that they would not be informed on such a vital matter that this is going to impose severe penalties. I can assure you there is not a community in Maine where that would not be a central issue of debate if this was to be offered. While I appreciate the Senator's comments, I do not believe that we have an uninformed electorate, that they would not be aware of that.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Martin to Indefinitely Postpone Senate Amendment "B" (S-417) to Committee Amendment "A" (S-410). 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 (#280)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DIAMOND, DOW, HOBBS, MARRACHE, MARTIN, MILLS, MITCHELL, PERRY, ROTUNDO, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: DAMON, GOOLEY, HASTINGS, MCCORMICK, NASS, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, WESTON

ABSENT: Senators: NUTTING, STRIMLING

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **MARTIN** of Aroostook to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-417) to Committee Amendment "A" (S-410), **PREVAILED**.

Committee Amendment "A" (S-410) as Amended by Senate Amendment "D" (S-419) thereto, **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

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

Senator **DAMON** of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, until Thursday, February 14, 2008, at 10:00 in the morning, in memory of and lasting tribute to Pamela Morrill of Gardiner.