

# MAINE STATE LEGISLATURE

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

Daily Edition

First Special Session  
April 1, 2008 to April 18, 2008

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

In Senate Chamber  
Wednesday  
April 16, 2008

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

Prayer by Senator Christine R. Savage of Knox County.

**SENATOR SAVAGE:** Good morning. Please join me in prayer. Heavenly Father, we thank You for Your creations. As we look around us and see the trees budding, flowers peeking out of the warming ground, and the warm sun, we are grateful. As we near the end of this session, and for some of us the end of our legislative careers, we are thankful for the many friendships made. Father, God bless our families and friends in whatever it is that You know they may be needing this day and may their lives be full of Your peace, prosperity, and power as they seek to have a closer relationship with You. Amen.

Reading of the Journal of Tuesday, April 15, 2008.

Doctor of the day, David Seltzer, MD, DO and Nevalée Seltzer,  
MD of Bangor.

Off Record Remarks

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

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish a Single-payor Health Care System"

H.P. 790 L.D. 1072

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-644)** (8 members)

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

In House, January 29, 2008, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-644) AS AMENDED BY HOUSE AMENDMENT "A" (H-662)** thereto.

In Senate, April 15, 2008, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senator **SULLIVAN** of York moved the Senate **RECEDE** and **CONCUR**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#451)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **RECEDE** and **CONCUR**, **PREVAILED**.

Non-Concurrent Matter

Bill "An Act To Restore Equity to the Maine State Retirement System"

S.P. 600 L.D. 1693  
(S "E" S-621 to C "A" S-451)

In Senate, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENT "E" (S-621)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451)**, in **NON-CONCURRENCE**.

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

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**Non-Concurrent Matter**

An Act To Amend Motor Vehicle Laws

H.P. 1459 L.D. 2075  
(S "A" S-633 to C "A" H-913)

In House, April 11, 2008, **PASSED TO BE ENACTED**.

In Senate, April 15, 2008, **PASSED TO BE ENGROSSED AS  
AMENDED BY COMMITTEE AMENDMENT "A" (H-913) AS  
AMENDED BY SENATE AMENDMENT "A" (S-633) thereto, in  
NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A  
COMMITTEE OF CONFERENCE**.

Senator **DAMON** of Hancock moved the Senate **RECEDE** from  
whereby the Bill was **PASSED TO BE ENGROSSED AS  
AMENDED BY COMMITTEE AMENDMENT "A" (H-913) AS  
AMENDED BY SENATE AMENDMENT "A" (S-633) thereto, in  
NON-CONCURRENCE**.

Same Senator requested and received leave of the Senate to  
withdraw his motion to **RECEDE** from whereby the Bill was  
**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE  
AMENDMENT "A" (H-913) AS AMENDED BY SENATE  
AMENDMENT "A" (S-633) thereto, in NON-CONCURRENCE**.

On motion by Senator **BRYANT** of Oxford, the Senate **INSISTED**  
and **JOINED IN A COMMITTEE OF CONFERENCE**.

The Chair appointed as conferees on the part of the Senate the  
following:

Senator **BRYANT** of Oxford  
Senator **DAMON** of Hancock  
Senator **RAYE** of Washington

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**SENATE PAPERS**

Bill "An Act To Amend the Charter of Northern Maine General"  
S.P. 930 L.D. 2322

Sponsored by Senator **MARTIN** of Aroostook.  
Cosponsored by Representative **JACKSON** of Allagash.  
Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 205.

Committee on **HEALTH AND HUMAN SERVICES** suggested and  
ordered printed.

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

Ordered sent down forthwith for concurrence.

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

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**ENACTORS**

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

**Emergency Measure**

An Act To Validate Certain Proceedings Authorizing the Issuance  
of Bonds and Notes by Maine School Administrative District No.  
29

H.P. 1683 L.D. 2321

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

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**Act**

An Act To Protect Children's Health and the Environment from  
Toxic Chemicals in Toys and Children's Products

H.P. 1432 L.D. 2048  
(H "A" H-948; H "B" H-973;  
S "E" S-622; S "I" S-629;  
S "K" S-632; S "L" S-643 to  
C "A" H-898)

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. I wonder if,  
before we take this final vote, either a protagonist or antagonist  
on this particular bill, as now amended could summarize it for me  
before I cast my vote?

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

Senator **MARTIN:** Thank you, Madame President and members  
of the Senate. I want to thank the good Senator from  
Cumberland, Senator Turner, for his question and I hope he's  
prepared to have a very long discussion. I will tell you that this bill  
came to the Natural Resources Committee about two months ago  
and it really was, from our point of view, clearly one of the more

controversial bills that we were going to receive. We began with the premise of trying to deal with the issue, knowing clearly that one of the problems we were facing, much more than the issue of the environment, was the issue we were having with potential toxic elements and our children. The impact that some of the toys and the toy manufacturers, who really don't live in this country but whose toys are sold here, and the potential real harm to the health of some of our younger citizens. It became very clear to me when someone brought in a small plastic bottle used by children with milk in it and they laid out the chemicals that were used in making this bottle and the potential harm that could occur over time to the child. That really was my starting point, basically trying to say that whatever we do we had to attempt to take as much toxic materials out of use as possible when dealing with young children. Then came the question of how to control that. Keeping in mind that so much of this is now made in other countries. If you buy anything in stores now and look at the label that says 'Made in China'. Frankly, with the FDA and everyone else having very little control, and the federal government really not doing very much, it was clearly the understanding that if we're going to try to get to that issue we're going to have to do it on our own. We then began that step of moving towards that direction. Clearly, when we started circling around those items, we encircled people that we didn't want to encircle. All of a sudden we found ourselves in a situation where we were potentially impacting people in manufacturing in Maine that were, for example, using cans for putting food in. The inside of the can actually has a lining that is made with a chemical. The question, in my mind, was what was the volume that is needed in order to impact someone. We discovered that you probably would have to be drinking a gallon of the item that is used in the inside of the can before it would have an impact. Obviously, that's not where we were going. We started amending, in effect, those items that we knew we were not concerned about at that point.

At that point, if you watched the development of this bill as it sat in the other Body, they amended the bill in a number of ways and when it came here yesterday we subsequently added four amendments. What was amazing to me, after going through all the process, was that we ended up with a unanimous vote of this Body. I think that clearly indicates the capacity the legislature has to deal with issues that, from my point of view, are extremely important for the people we represent and we can do it in a collaborative way. It's clear that not everyone is happy, but I think we've made a major step forward.

As an aside I want to say that it provided a tremendous opportunity for lobbyists to make a great deal of money because, if you remember from the beginning of this bill, the national corporations were hiring people off the streets to come in and lobby us. We withstood some of those and where they were right we amended, for example the one we did last evening which talked about cell phones and whether or not we were going after the person whose name is on the label or the person who manufactured the unit. Clearly the potential damage is from the manufacturer and we have the responsibility of making sure we get to them and not someone who does the advertising.

I don't know how much more the Senator wants me to go into, but I'd be happy to go more if necessary. It's not a problem, but I think that this delivers, I think, where we started, where we ended up, and I believe we have a document before us that the Maine legislature can be proud of.

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

Senator **SMITH:** Thank you, Madame President. Just a few additional comments. We really had two bills before the committee. One was sort of focused on toys and the other one was a broader bill that came in, I believe, from the Governor's Office that was put together by the committee. Although it retained the toy bill label on it, when they were put together they became a very broad consumer product bill. With the amalgamation of those two bills, I think, is where some of the problems with the bill began to arise. I think that many of the most urgent problems with this legislation have, in fact, been at least preliminarily addressed. So that we could answer the question more completely, perhaps, the House Amendment did two or three things; it made the fees which the DEP had unfettered power to levy in the bill subject to rulemaking that exempted the pulp and paper industry and the food processing industry. When it came down here there were four amendments that went onto the bill, two by the Senator from Aroostook, Senator Martin. One was to exempt the cell phone industry, as I recall, and the other eliminates, in the requirement to file information with the DEP, the many layers of distributorships that can be involved so the DEP must go to the manufacturer rather than a number of layers in the chain of commerce that wouldn't be able to answer their questions about what priority chemicals are in the products. The other important amendment was by the Senator from Washington, Senator Raye, that brought in a stakeholder process and I believe elevated CDC, the Center for Disease Control, in this whole matter of establishing priority chemicals. The Senator from York, Senator Hobbins, offered an amendment that was adopted that put technical rulemaking back in for the selection of the priority chemicals. That is approximately where the bill stands at this point. Greatly changed, I think, since it came out of committee. I believe that this bill will be seen by future legislatures when it becomes more widely known but, at any rate, I think we've laid the groundwork for dealing with whatever issues come forward in the future in the way in which it has been conducted. Personally, I was gratified that others came forward, trying to help us understand and correct this bill. I think that work that has been done by way of floor amendments has definitely improved the bill. At this point it has reached a point where the private sector that has looked at this can live with it at least and for those of us who were more skeptical of it can live with it as well. I'm pleased to support it here today.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I would describe the amendments to this bill as very persistent, very viable, and very communicative and I hope they are not toxic. Thank you.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I just wanted to add to what the Senator from Aroostook, Senator Martin, and the Senator from Piscataquis, Senator Smith, have told the Body in response to the question

from the Senator from Cumberland, Senator Turner. I do believe that this legislation before us, in the status that it has today, is a very fine piece of legislation and I'm very pleased to be able to lend my support. I want to compliment all of those members of this Body and the other Body who worked so diligently to fine tune and strengthen this bill and to make it something that we can all be proud to support. It does, as a result of the amendments that we have been able to add to it, address some very serious concerns that Maine manufacturers and businesses had with respect to being placed at a disadvantage vis-à-vis their competitors in other states, which I think would have been a very unfortunate and shortsighted thing to do and certainly would have been an unintended consequence. I don't think it was the intension of the sponsor to do that. The inclusion of the stakeholder process, the inclusion of the requirement that the Maine CDC, where the State toxicologist is housed, concur with the identification of priority chemicals, and the addition of rulemaking have all greatly strengthened this bill. I just want to compliment again everybody who was involved in making this happen. This is the best of the legislative process at work. We do have a bill that I think will move us forward and continue Maine's leadership in making our state safe for our children and we've done it in a way that I think is wise in making sure that we are not placing our businesses, our jobs, and our working people at a disadvantage.

**THE PRESIDENT:** The pending question before the Senate is Enactment. 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 (#452)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

#### ORDERS OF THE DAY

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Keep Bridges Safe and Roads Passable  
H.P. 1673 L.D. 2313  
(C "A" H-1017)

Tabled - April 15, 2008, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1017)**, in concurrence.)

(In House, April 15, 2008, **PASSED TO BE ENACTED**.)

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

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

#### PAPERS FROM THE HOUSE

##### Non-Concurrent Matter

Bill "An Act To Promote Transparency and Accountability in Campaigns and Governmental Ethics"

H.P. 1585 L.D. 2219  
(S "A" S-601 to C "B" H-939)

In Senate, April 14, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-939) AS AMENDED BY SENATE AMENDMENT "A" (S-601)** thereto, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-939) AS AMENDED BY HOUSE AMENDMENT "A" (H-1023)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **MARRACHÉ** of Kennebec, the Senate **INSISTED**.

Sent down for concurrence.

#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/10/08) Assigned matter:

Bill "An Act To Make Minor Substantive Changes to the Tax Laws"

H.P. 1531 L.D. 2151  
(C "A" H-854; S "A" S-537;  
S "B" S-557)

Tabled - April 10, 2008, by Senator **PERRY** of Penobscot

Pending - **FURTHER CONSIDERATION**

(In House, April 2, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-854).**)

(In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-854) AND SENATE AMENDMENTS "A" (S-537) AND "B" (S-557), in NON-CONCURRENCE.**)

(In House, April 9, 2008, that Body **INSISTED.**)

On motion by Senator **PERRY** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-854) AND SENATE AMENDMENTS "A" (S-537) AND "B" (S-557), in NON-CONCURRENCE.**

Same Senator moved the Senate **RECEDE** from whereby it **ADOPTED SENATE AMENDMENT "A" (S-537) and INDEFINITELY POSTPONE** same.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **PERRY** of Penobscot to **RECEDE** from whereby the Senate **ADOPTED SENATE AMENDMENT "A" (S-537) and INDEFINITELY POSTPONE** same.

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

**Emergency Resolve**

Resolve, To Create the Blue Ribbon Commission To Study the Future of Home-based and Community-based Care

H.P. 1436 L.D. 2052  
(C "A" H-795)

Tabled - April 2, 2008, by Senator **MARTIN** of Aroostook

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 28, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-795), in concurrence.**)

(In House, April 1, 2008, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-795), in concurrence.**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-795).

On further motion by same Senator, Senate Amendment "B" (S-649) to Committee Amendment "A" (H-795) **READ and ADOPTED.**

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Senate at Ease.

Senate called to order by the President.

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Committee Amendment "A" (H-795) as Amended by Senate Amendment "B" (S-649) thereto, **ADOPTED, in NON-CONCURRENCE.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-795) AS AMENDED BY SENATE AMENDMENT "B" (S-649) thereto, in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

An Act To Implement the Recommendations of the Legislative Youth Advisory Council with Respect to Educational and Organizational Matters

H.P. 1510 L.D. 2131  
(C "A" H-734)

Tabled - March 20, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, March 17, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-734), in concurrence.**)

(In House, March 19, 2008, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-734), in concurrence.**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-734), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-646) to Committee Amendment "A" (H-734) **READ** and **ADOPTED**.

Committee Amendment "A" (H-734) as Amended by Senate Amendment "A" (S-646) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-734) AS AMENDED BY SENATE AMENDMENT "A" (S-646)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

An Act To Implement the Recommendations of the Alternative Education Programs Committee

H.P. 1661 L.D. 2303

Tabled - April 9, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence  
(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, April 9, 2008, **PASSED TO BE ENACTED**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-647) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-647)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

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On motion by Senator **ROTUNDO** of Androscoggin, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

**Emergency**

An Act To Provide Tax Relief to Maine's Forest Products Industry  
S.P. 857 L.D. 2225  
(C "A" S-559)

Tabled - April 9, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-559)**.)

(In House, April 9, 2008, **PASSED TO BE ENACTED**.)

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.

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

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

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

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

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

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Senator **MARTIN** of Aroostook was granted unanimous consent to address the Senate off the Record.

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Senator **SHERMAN** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

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On motion by Senator **MITCHELL** of Kennebec,  
**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

#### **PAPERS FROM THE HOUSE**

##### **Joint Resolution**

The following Joint Resolution:

H.P. 1684

#### **JOINT RESOLUTION TO ENCOURAGE THE PEACE PROCESS, A RETURN TO CIVIL SOCIETY AND INTERNATIONAL COOPERATION IN CHECHNYA AND THE NORTHERN CAUCASUS REGION OF THE RUSSIAN FEDERATION**

WHEREAS, two profoundly violent civil wars have taken place in Chechnya, Ingushetia and the Northern Caucasus Region of the Russian Federation since the collapse of the Soviet Union; and

WHEREAS, these wars, which took place from 1994 to 1996 and from 1999 to 2007, have resulted in the death of up to 250,000 people, which is almost one-quarter of the population of Chechnya, and the dislocation of up to 500,000 people, or almost half the population of Chechnya; and

WHEREAS, the most violent aggression has fallen on innocent families and refugees in Chechnya, Ingushetia and the Northern Caucasus Region through the activities of the Russian military and security forces, and ethnic discrimination is suffered by Chechen, Ingush and other Caucasus peoples throughout the Russian Federation; and

WHEREAS, various citizens, scholars, students and residents in the State of Maine are involved in civic, cultural, social and business exchanges with Chechnya, Ingushetia and the Northern Caucasus Region in the Russian Federation; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the First Special Session, on behalf of the people we represent, take this opportunity to urge the government of the Russian Federation to honestly and transparently engage in creating a just peace in Chechnya, Ingushetia and the Northern Caucasus Region; and be it further

**RESOLVED:** That we also urge the encouragement of a return to democratically elected officials and institutions in Chechnya, Ingushetia and the Northern Caucasus Region, and we urge the encouragement of civic and social links between Chechnya, Ingushetia and the Northern Caucasus Region, the Russian Federation and the rest of the world.

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

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

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

#### **PAPERS FROM THE HOUSE**

##### **Joint Order**

The following Joint Order:

H.P. 1685

WHEREAS, the Joint Select Committee on Future Maine Prosperity was directed by Joint Order 2007, H.P. 1018 to develop a comprehensive plan to achieve sustainable prosperity in the State; and

WHEREAS, the report of the committee contained findings and recommendations for consideration by various committees of the Legislature; now, therefore, be it

**ORDERED**, the Senate concurring, that the joint standing committees of the 124th Legislature having jurisdiction over matters of appropriations and financial affairs; business, research and economic development; education; health and human services; insurance and financial services; state and local government; and taxation shall review and consider the recommendations of the Joint Select Committee on Future Maine Prosperity and other related recommendations in January 2009 and may submit legislation to the First Regular Session of the 124th Legislature regarding the matters contained in the report that are under the jurisdiction of the joint standing committees.

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

**READ**.

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

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

**Emergency**

An Act To Create the Maine Agriculture Protection Act  
S.P. 591 L.D. 1684  
(C "A" S-455)

Tabled - March 25, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, March 17, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455).**)

(In House, March 20, 2008, **PASSED TO BE ENACTED.**)

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.

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On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

**Emergency**

An Act To Promote the Agricultural Economy  
H.P. 1606 L.D. 2245  
(C "A" H-862)

Tabled - April 4, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, April 1, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-862)**, in concurrence.)

(In House, April 4, 2008, **PASSED TO BE ENACTED.**)

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.

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **MARTIN** of Aroostook, the Senate removed from the **SPECIAL STUDY TABLE** the following:

An Act To Create the Maine Council on Poverty and Economic Security

S.P. 362 L.D. 1110  
(C "A" S-548)

Tabled - April 8, 2008, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-548).**)

(In House, April 8, 2008 **PASSED TO BE ENACTED.**)

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

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

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

Senator **WESTON:** Thank you, Madame President. Is there an amendment to this that is not before us?

**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 Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. I have no pending amendment that was voted on by leadership.

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

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The Chair laid before the Senate the following Tabled and Later (4/15/08) Assigned matter:

Bill "An Act To Require That a Person Be a Maine Resident in Order To Be Issued a Maine Driver's License" (EMERGENCY)  
H.P. 1662 L.D. 2304  
(H "B" H-994)

Tabled - April 15, 2008, by Senator **DAMON** of Hancock  
Pending - **FURTHER CONSIDERATION**

(In Senate, April 14, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-994)**, in concurrence.)

(In House, April 14, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "B" (H-994) AND "C" (H-1006)**, in **NON-CONCURRENCE.**)

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-994)**, in concurrence.)

House Amendment "C" (H-1006) **READ**.

On motion by Senator **DAMON** of Hancock, House Amendment "C" (H-1006) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-645) **READ**.

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. This amendment is very similar to the House Amendment that we have just Indefinitely Postponed but it eliminates two words in that amendment. It allows for people of nontraditional housing to be issued a driver's license if they claim a shelter as their residence. The previous amendment provided for a shelter, a park, or an overpass, I think, as domiciles. This tightens it up a bit and provides simply for a shelter. It stays within the intent of this particular law. I would urge its adoption. Thank you, Madame President.

On further motion by same Senator, Senate Amendment "A" (S-645) **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (994) AND SENATE AMENDMENT "A" (S-645)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (4/15/08) Assigned matter:

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting  
S.P. 925 L.D. 2315

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-630)** (8 members)

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

Tabled - April 15, 2008, by Senator **MARRACHÉ** of Kennebec

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

(In Senate, April 15, 2008, Reports **READ**.)

On motion by Senator **ROSEN** of Hancock, **TABLED** until Later in Today's Session, pending the motion by Senator **MARRACHÉ** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Bill "An Act To Restore Equity to the Maine State Retirement System"

S.P. 600 L.D. 1693  
(S "E" S-621 to C "A" S-451)

Tabled - April 16, 2008, by Senator **MITCHELL** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENT "E" (S-621)** thereto.)

(In House, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451)**, in **NON-CONCURRENCE**.)

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

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

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The Chair laid before the Senate the following Tabled and Later (4/15/08) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Lower the Cost of Health Insurance"

H.P. 765 L.D. 1047

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-666)** (5 members)

Tabled - April 15, 2008, by Senator **SULLIVAN** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 14, 2008, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 15, 2008, Reports **READ**.)

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

On motion by Senator **SNOWE-MELLO** of Androscoggin, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

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

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. First of all, I rise in support of L.D. 1047 which will create a health insurance risk pool. Like with the reinsurance pool, the risk pool will help us greatly to reduce the cost of health insurance in Maine while increasing access for Mainers. That is extremely important. This is where we really truly need to go. This will lower the cost and lower the premiums. I'm very disappointed in the Chair of my committee who was in support of this bill. I don't mean to sound like a broken record on this issue, but apparently the only way we will be able to reform the system is for us to keep talking about it until we get something done. Did you know that Maine families pay the second highest premiums in the U.S.? Creating this risk pool will lower the cost by more fairly distributing the cost of insurance across Maine's insured, unlike Dirigo. Once the cost is reduced by being more fairly distributed more people will be able to afford health insurance, which will drive down the cost further. We need to get young people to buy insurance. In Maine's health insurance a young person that consumes little in health care doesn't see the cost benefit of carrying health insurance. They have to pay nearly the same as a person who consumes a lot of health care and so for them the money is better spent on other things. If we can make it cost effective for young Mainers to get health insurance we will not only help reduce the cost of health insurance across the board but we will also take a step to help keep our young here. That's absolutely critical in order to bring down our high premiums. You know, we are second to New Jersey in the high cost of premiums. That is, like I said last night, totally unacceptable. I need not remind the Senate that we are the oldest state in the nation. If we want to continue to provide services at all we must do something to encourage our young to stay here in Maine. This bill makes sense, ladies and gentlemen. One percent of the insured population generates nearly 50% of claims in Maine. This is unsustainable. We must reform the system now and not just put Band-aids on the system. We must reform the system if we are to ensure that we are able to meet the health needs of our citizens. I encourage you to please take that bold step that I talked about last night and support L.D. 1047 and reject the motion that is on the table. Let us deliver greater access and cheaper health insurance to the people of Maine. Let us move towards a more competitive health insurance market. Let us make strides to allow young Mainers to live where they grow up and not have them continually leave this state for better opportunities. We want to keep our children here in this state. By lowering the cost for our children it will eventually lower the rates for everyone. Getting more people in the insurance risk pool will make the cost of health insurance a lot more affordable. It takes time but eventually even those that are in the risk pool will no longer have to be in that risk pool. Ladies and gentlemen, I know that you've heard a lot of very negative comments regarding the

risk pool but it's the only way we should go. As I said last night, 33 states in this nation have gone in this direction and their premium rates are far lower than ours. I'm asking you to not support the pending motion and vote in favor of this bill. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. First let me set the record straight. I did vote in favor of keeping this bill alive. Last year we voted on this bill and two other bills. They went to the other Body and they were left on the table to die because the other Body did not want to vote on them. When it came out that they were carry over bills, because I had committed my word to the fact that we would have an honest discussion about all ways to improve market reform, I voted against my party in order to have this come on. We have had a year to discuss it and absolutely no progress had been made. When I went and interviewed every single member of the committee the number one item on the other side of the aisle was market reform. The number one item on this side of the aisle was to keep Dirigo and 15,000 covered. I felt both could be done. I again would ask you to go back and look at the report that I put out in a group of one, just one person. It was a unanimous report of one. Didn't disagree with myself at all. However, that didn't happen. Maine has had a high risk insurance pool in the past and it failed. One item will not correct our problems. They are varied. We have a myriad amount of problems. This will take the oldest and sickest people. The good Senator from Androscoggin, Senator Snowe-Mello, is correct. Maine is the oldest per capita population state in the nation. Unfortunately, old people get sick. What you would do if you were to pass this is that it would not be a paper high risk pool, which is what I was recommending in L.D. 1760 which is a bill we have not seen but have discussed in committee. We would actually take the old and the sick and charge them unbelievable premiums in order to subsidize other people. This is the high risk pool and it does move them. We called them the critical care at the time. Indeed, I did vote to keep this alive and to have an honest conversation. Time is drawing nigh and we're going to go home, I've been told. I would ask you to please support the Ought Not to Pass on this. Let's move on and hopefully next year there can be compromises and we can continue to work to honestly bring about market reform. I would add that what we did last night, with a pilot program for young people that actually gives them pieces of health care that will work for those people under 30, is a better beginning to keep people insured in the state of Maine. Thank you.

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

Senator **SNOWE-MELLO:** Thank you, Madame President, ladies and gentlemen of the Senate. First of all, let me remind you that the risk pool, if totally funded by the government and by the State, does not work, but this piece of legislation has \$1 million that we can get from the federal government to start this up. It also is funded by assessments across the board. All insurance and every person that has a policy, not just certain people or certain groups will pay for that assessing so it makes it very fair. Also with this bill we would also broaden the band on community rating. If you don't broaden the community rating band far

enough it won't work. You need to have a combination between the risk pool and the community rating. That is what this piece of legislation does. It works. It will bring down the cost. Just look to New Hampshire and their premiums are far less than ours. That means everyone's premiums. We need to get everyone insured in this state that we can. Right now we are falling short, drastically short. Yes, in the beginning the very ill will pay more, but remember those folks use the system and they use the system more than the healthy young people. As the risk pool is in place, it balances out and we get enough people in the market so folks can get off the risk pool. It's a very good piece of legislation and it's somewhere we need to go. Thank you.

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

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

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

Senator **WESTON:** Thank you, Madame President. The comment made earlier about the pilot program and the Dirigo legislation was that for 30 and under there was going to be a reduction of premiums. Is there an estimate or a number of the reduction in cost for premiums for those under 30 at this point?

**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 York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. When we were discussing and crafting the different reports there was a discussion and we used the Massachusetts plan. Harvard Pilgrim was the group that put the Massachusetts program together and a policy for young people and a full policy is about \$250 per month for that. We are unsure because our Maine market is a little different, but we expect it might be even possibly a little less because we are reducing and removing many of the requirements, the mandated requirements. Massachusetts did not remove those. We have with this because it services under 30. Again, it's something we haven't tried and haven't run the numbers, but I would remind that this pilot program is not just for Dirigo, all carriers, Anthem or anybody that is in here, will be able to have that program. It is not a pilot program just for Dirigo. It is for all carriers.

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

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

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. I understand that we are one of the few states that turns down money from the federal government that would be available to us to help fund the risk pools. Could you tell me how much money would be forthcoming from the federal government if we set this program up?

**THE PRESIDENT:** The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you, Madame President. It's about \$1 million to draw down from the federal government to create a risk pool. While I'm up I'd also like to say that when we were debating Dirigo there were a lot of comments that many of our businesses support Dirigo. I've gotten something from the President from my own Chamber of Commerce. I want to read to you what he has to say.

**THE PRESIDENT:** Senator, I would just advise you to be speaking to this bill and not to a previous bill.

Senator **SNOWE-MELLO:** Thank you, Madame President. This is to this bill. 'My name is Charles Morrison and I am President of the Androscoggin County Chamber of Commerce. Our Chamber members represent 1,265 businesses and organizations in central Maine. Health insurance reform is the highest priority for our members. Each year our members, particularly those in the small group market, struggle to maintain health insurance for themselves and their employees. Each year it seems to be an even more Herculean task. I asked the committee to look at market reforms, true market reforms, which will make health insurance more affordable for working families and Mainers. In our opinion the State does not have the financial wherewithal to subsidize insurance to increase coverage. It is incumbent on the legislature to institute market reforms that make health insurance more available. I ask you the question, why is private health insurance so much more expensive in Maine? As you answer that question truthfully, you will conclude that well-meaning laws and regulations have driven up the cost of health insurance. I ask the committee to look at those laws and regulations and make the necessary changes.' I think that Mr. Morrison is a wise man and he represents a lot of folks in Androscoggin County. He has been e-mailing us like crazy saying to support true market reform and the risk pool. We need to do this. It's important. Dirigo represents so few people, but we need to get our insurance premiums down so everyone has the opportunity. Isn't that what you want? That's what I want. That's what I think most businesses and folks back home want. Thank you.

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

Senator **MARTIN:** Thank you, Madame President. Very quickly, let me just remind members of the Senate that I was one of those involved when we passed the high risk pool in this state. It was a horrible disaster and it clearly was a mistake. The amount of federal money has a few items tied to it that were not discussed. Finally, it would repeal guaranteed insurance and coverage to individuals. This is a lousy method to go with. I would also point out that people suggesting assessments tonight were not there last night.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#453)**

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

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

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

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Senate at Ease.

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting  
S.P. 925 L.D. 2315

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-630)** (8 members)

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

Tabled - April 16, 2008, by Senator **ROSEN** of Hancock

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

(In Senate, April 15, 2008, Reports **READ**.)

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

**READ ONCE.**

Committee Amendment "A" (S-630) **READ**.

On motion by Senator **MARRACHÉ** of Kennebec, Senate Amendment "A" (S-650) to Committee Amendment "A" (S-630) **READ**.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. This is simply an amendment that takes out the time period that people can do the open voting. That would be from 15, which was currently in the bill, to 8 calendar days prior to election day and that vote-by-mail has been removed from the bill. It is simply a referendum question that will go out to the people in November and it says, 'Do you favor amending the Constitution of Maine to allow the legislature to authorize a process to allow qualified voters to vote at polling places outside their election districts during the 8-day period immediately preceding an election?' That is the only question that will be on the ballot from this bill. We ran a pilot project on open voting in three or four cities and towns across the state. It was overwhelmingly well received. The clerks love it, the people love it, and I hope that we will allow this to go out to the people to vote on. Thank you.

Senator **BENOIT** of Sagadahoc requested a Roll Call.

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

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

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

Senator **BENOIT:** Thank you, Madame President. I'm just curious to know what the expense would be to a community to have polls open for 8 days? Am I hearing that correctly, that's what's going to be offered out there, 8 days of polls being open with people needing to be in chairs so that they can go in and vote, when you can vote absentee ballot just as easily? I'd just like some clarification.

**THE PRESIDENT:** The Senator from Sagadahoc, Senator Benoit poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Marraché.

Senator **MARRACHÉ:** Thank you, Madame President. This open voting can be done during operating hours so they can have it restricted to only the times when the clerk is there and if they want to have expanded hours they can within their own means expand those hours for access. It's what they want, so I doubt you will have many people worried about the funding.

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

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

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

Senator **RAYE**: Thank you, Madame President. I was just curious if the Legal and Veterans Affairs Committee had discussed this. I wonder how this is going to work in small towns. In my town the town clerk, there is no office. You go to her house and sit at her kitchen table. I'm just wondering how that would work in a situation like that?

**THE PRESIDENT**: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN**: Thank you, Madame President, men and women of the Senate. Thank you for the question. That was what some of our discussion in the committee revolved around, what the actual bill would look like. This, obviously, is getting permission for that to happen. We would have to iron it out when we come back. There were some people on the committee who felt very strongly that it should be ironed out and the question, as with any question that goes out on a ballot, should have the underlying legislation with it. I know that there are some people on the committee who are not comfortable with this at all. It is a philosophical question for you to answer for yourself; do you want to amend the Constitution? This is not easily done. It takes 2/3 from each Body before we send it out, which means we need to look at the issue. The clerks asked us to do this because there is so much use of absentee balloting. Absentee balloting has proved to be a very reliable way for the voting to be tracked. I think one of the big problems that we talked about in committee was if you have the 8 days previous to the balloting how would you provide the security. There would be no application. No envelopes. Challenging a ballot would be catch-as-catch-can, depending on who you could have at the polling place. Those are all issues that are left up to the legislature to decide when we come back after the vote of the people. That's why there is a split committee vote. The amendment takes away two of my largest concerns; which were a two-week voting period and the vote-by-mail. The vote-by-mail wasn't even discussed in this session of the legislature. The Legal and Veterans Affairs Committee probably had more committee changes than any other committee in the last three years since we last talked about vote-by-mail. Vote-by-mail is no longer in there. The period is shorter. I guess now you are going to have to decide if you want it to go forth to the people to get a general approval and then have it come back to be guided or made into a bill. Remember that this bill would be passed by a simple majority. This is the big step that we're taking. Everything else after this will be done in the legislature and that part bothers me as well. Sometimes it seems easy to put in a change to the Constitution. I feel comfortable with this language. I know it's going to take a lot of work on the Legal and Veterans Affairs Committee to make sure that we address the security and integrity of the ballot concerns that are going to come up.

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

Senator **DIAMOND**: Thank you, Madame President, men and women of the Senate. I'd like to have an opportunity to give a little bit of background on this issue. First let me explain that early voting and absentee voting are very close. The reason why town and city clerks are so adamantly pushing for this change is

because of the following. Absentee voting, you go to the town clerk's kitchen table or you go to the office. It makes no difference, wherever it is. You fill out an envelope. You fill out an application. Then you vote, if you are doing it onsite. Those are three steps. With early voting, and the reason why the committee on Legal and Veterans Affairs passed a bill last year to make this a pilot project, all you do is go and take away two of those steps because you just vote on the ballot. It's a huge amount of time saved. This is something that is very important to the clerks. Our record in Maine for the voter turnout is 74% VAP, voting age population. That's accurate. This year, with the 2008 Presidential election, we are going to break that turnout record. What the clerks of our cities and towns are concerned about is that if we are not allowed to have early voting, which the Attorney General feels that our current Constitution does not allow, hence this required change, the stress and the backup on the system is going to be phenomenal, even clogging down the system. What happens with early voting, and the reason the clerks want this, is because on election day people are afraid and fear there will be huge lines and they do not want to wait in those lines. Early voting allows them to go into the polls beforehand, vote the ballot, and leave. This year is a little bit different since the Attorney General has said that this is probably unconstitutional and no early voting will take place. All we have left in the state of Maine for this largest turnout in Maine's history will be absentee voting. People will be coming into the clerk's office, filling out the application, filling out the envelope, and then filling out the ballot. We're stuck with that problem and that really serious situation for this election year. By the way, changing the Constitution must take place in November. We can't do it in June to get ready for November. As a result, if this were to pass, we will be able to change the Constitution in November for future years and allow early voting. This all came from your town clerks and city clerks. That's where this came from.

The committee also reported out a bill, I think it might have passed at this point, that would prohibit in-person absentee voting this year only on November 3<sup>rd</sup>, the day before the election for that very reason of the stress and backup and the plugging up of the lines. We're going to take care of that a little bit this year by not allowing absentee voting in person the day before the election but we still have this phenomenal problem to deal with. Amending the Constitution will be a big help. If you had the chance to call your clerk right now I would bet that they would say that we need to address this problem. If they hadn't had the chance to contact you then obviously you would not know what their concerns really are. I would ask you to think about this carefully. This is not a partisan thing, or shouldn't be, one way or the other. This really should be a logistical change to allow the clerks to conduct their business to help reduce the stress lines that are going to happen this year and years to come. I'd be happy to answer any questions any may have. Thank you.

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

Senator **BENOIT**: Thank you, Madame President. I think, for me, what concerns me is that this is going to go to referendum and then it will have to be tweaked back here. I really think the people will be voting on something, if I'm understanding this correctly, that they really do not know the whole story on. It is going to be worked on after they have voted on it and that makes me uncomfortable. Unless I'm wrong, I'm going to have to vote

against this because I haven't heard from anyone from Sagadahoc County that's in favor of this. I think this is probably a pretty good idea, it makes perfect sense the way the Senator from Cumberland, Senator Diamond, explained it. I don't have a problem with it personally. I think my problem is that I'm not sure that people voting on something that isn't a complete package, that's going to actually be set in statute, is just a little misleading. If that is what's going to be happening in November, please correct me. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Savage.

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

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

Senator **SAVAGE:** Thank you, Madame President. During the hearing and work session was there any concern about the security of these ballots? I'm thinking about the little town clerks who operate out of their kitchen, off their kitchen table. Been there, done that. Are we going to have something in the rules or how are those ballots going to be secure?

**THE PRESIDENT:** The Senator from Knox, Senator Savage poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Marraché.

Senator **MARRACHÉ:** Thank you, Madame President. The answer to the question is yes. It was brought up. We talked about this a lot. Julie Flynn, who was there from the Secretary of State's Office, felt that this issue would be addressed once we had an idea that people wanted this to take effect and that we would make sure that they were safe. Remember now, it's not going to open up across the entire state. It's going to be in any town or city who wants to do this. They will have the opportunity to decide.

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

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

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

Senator **SHERMAN:** Thank you, Madame President. I guess the question was asked about the security of the boxes. Some of these are what I call computer voting, where they are running through the machines. I wonder how that would be handled? In reference to the large turn out, I'm sure there will be many McCain voters out there.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I'd be pleased to respond. Most town

clerks, city clerks, have the electronic voting and would have those in their town halls where early voting would take place. If they did not have that they would have to provide some other form of security. If they felt they were not able to do that then they would probably choose not to allow early voting. I missed the second part of the question. I apologize.

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

Senator **STRIMLING:** Thank you, Madame President. I rise in support of this and just to address a few of the concerns that have come up. My good colleague from Sagadahoc, Senator Benoit, when you talk about the Constitutional amendment we would then need to create an acting legislation around it. That is how Constitutional amendments work. You don't put all of the legislation in the Constitution, you put the language that allows you to do something and the legislature comes together and creates what it needs to in order to support that. The Constitution can't be a statute or there would be books and books and books. The Constitution sets the groundwork and then we build the legislation underneath it. That really is the process. That's the only way you do Constitutional amendments. It would be inappropriate, I believe, to put all the details in the Constitution.

On the security issue, I would also add that when you do this, the City of Portland has done this early voting. I am strongly in support of it. It has been a great boon to having turnout increased and also to just make it easier for people to be able to go down and vote. In many ways it is actually more secure than absentee ballots because we know that sometimes we have trouble with absentee ballots because somebody drives to their house and sits there, gets the application, takes it back to the city, goes back there, they then vote, and then takes it in. Indeed there have been some cases in the Secretary of State's Office and Attorney General's Office where there was undue influence of somebody. They had signs on the van or they were influencing the voter. There is a little bit less security in the absentee ballot process. This is just like a voting booth. It's exactly the same. It's as secure as it is on election day. It really is a great process to increase the turn out throughout the state. I'd strongly encourage my colleagues to support the motion.

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

Senator **HASTINGS:** Thank you, Madame President. It all makes a lot of sense. I just think we are hoping there will be a great headline some day when 5 days into the 8 days NBC announces that based on exit polls that so-and-so has just won, that they are declaring so-and-so the victor in this election. I wonder if we'll have some interesting news stories and debates over that.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. They don't tally the open voting. It goes into a machine and sits there until the end of election day. No one will be able to come up with who won. We already have absentee ballots going out long before we would even have this 8



day period and there are a lot. I'm hoping that somebody back here knows the exact number. It was in the thousands.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. My chief concern goes back to the question posed by the Senator from Knox, Senator Savage. I'm picturing a ballot box on a kitchen table in a small town in rural Maine, sitting there for 8 days as people come in and vote. It then gets put into the trunk or the backseat of the clerk's car and hauled off to the polling place on election day. I've participated in many elections and the sanctity of that ballot box, I can tell you that ballot box is always under a watchful eye in the town hall or fire station or wherever you are voting. Everybody looks in the ballot box and it's empty, then it gets sealed, and the voting is held and it's opened up. The thought that it's going to be sitting in somebody's house for 7 or 8 days and riding in the backseat of a car on the way to the polling place makes me very uncomfortable. I think it's a big departure from the tradition that we have. I guess I would need to feel safer. I recognize what the Senator from Cumberland, Senator Strimling, said about legislation is crafted after an amendment is passed, I think we need to be much more precise in terms of how this will all work. I can see that it could be very practical in some areas, particularly in the larger communities where they are using machines. From a rural perspective, I have very serious concerns.

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

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. Just a couple of thoughts on this. First of all, it's my understanding that we always try to do as much as possible to get people to vote. That is democracy. Sometimes the first Tuesday after the first Wednesday in November just doesn't happen to work for everybody. Sometimes the weather doesn't even cooperate with us. Sometimes people get ill. We sent observers over to countries trying to build their democracy to make sure that everybody gets a chance to vote. I'm wondering if just at a certain time, from 8 to 8 or 7 to 6 or whatever your poll hours are. As one of the Senators talked about the country kitchen I have to admit that I haven't had to do that. I'd have to say, where do the absentee ballots go for that community? Somebody is watching the absentee ballots that come in. You trust the U.S. Post Office with those absentee ballots coming in. I guess I'm concerned. My last point is that I understand that this is an option. Have we not learned in this Chamber and in the other Chamber that one size does not fit all in our system? Consolidation did not. One size did not fit everybody. I'm hearing that people have a choice. If it works for Portland and it doesn't work for Lubec, the Constitution says that's up to the local people. It's up to the citizens. It seems to me this is a lot about nothing. Somebody at lunch today was talking about a different item and they said, 'Five years from now we'll probably say why were we even arguing about this.' I wonder if five years from now people will say it's a great idea, people should be able to vote, and we should make it as easy as possible. The Constitution would allow the communities to decide and democracy to work. What a unique idea.

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

Senator **PLOWMAN:** Thank you, Madame President. With all of the questions being asked and questions that are different from the ones we heard the other day, I'd like to point out that the anticipated problem we are going to have is in November. That's when the huge rush is going to be. This bill cannot take effect to help us in November. Maybe this bill is not timely. We have four more years before we would have to have a plan in place to address the percentage of people who will show up. There are an awful lot of questions about security. There are an awful lot of questions about how it would work. I think that at this point I would move to Indefinitely Postpone.

Senator **PLOWMAN** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-650) to Committee Amendment "A" (S-630). Subsequently same Senator requested and received leave of the Senate to withdraw her motion to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-650) to Committee Amendment "A" (S-630).

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

Senator **MITCHELL:** Thank you, Madame President and men and women of the Senate. I have no illusions, if a motion has been made by a member of the opposition party to Indefinitely Postpone, that we would find 2/3 votes to pass this. I am totally bewildered by the debate and I simply have to stand and say that. People have been voting in record numbers with the pilot projects in early voting. I have not read anything about breaches of security. I have heard great rave reviews from those towns who have allowed it to happen. I'm not sure what the problem is. We are saying to the people, 'Would you like to make voting a bit easier for you?' It's not just for this year because I hope this kind of turn out goes on and on, whether it's McCain or Obama or anybody else in the future. I hope this large turn out continues. That's our job, to get people to the polls, to make them have a voice in this democracy. I don't know what the problem is. The voters have done this. They have voted with their feet, saying that this works. It will be their decision anyways whether or not we can do this. We're asking them. We don't get to write the Constitution here and I do agree that it is a very serious step to offer an amendment to the Constitution. I'm hopeful you will vote and allow the people of Maine to decide whether or not they like the opportunity to go to the polls and avoid the rush on election day, because it will be a rush. Look at our voter turn out. We've set the record nationally. Let's keep that up.

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

Senator **BENOIT:** Thank you, Madame President. I just have one last comment. I don't think that there is a problem. I think that everyone has an opportunity to vote and we've been voting with absentee ballots quite safely for years. I don't see this as a problem. There are many people that I know, and I've done it myself, that know they are going to be busy on voting day and just votes absentee ballot. It's really no big deal. People have been doing that for years. It's fine. I think we just need some time to think about this and perhaps talk about it a little bit more.

Quite frankly, I did not hear anything from my county so I'm just concerned that they even have a thought. Thank you.

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Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ADOPT** Senate Amendment "A" (S-650) to Committee Amendment "A" (S-630). (Roll Call Ordered)

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

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

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On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 8:00 in the evening.

After Recess

Senate called to order by the President.

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

#### ENACTORS

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

##### Resolve

Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State  
H.P. 790 L.D. 1072  
(H "A" H-662 to C "A" H-644)

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

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

#### ENACTORS

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

##### Act

An Act To Amend the Charter of Northern Maine General  
S.P. 930 L.D. 2322

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

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

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

Senator **WESTON:** Thank you, Madame President. For anyone who can answer, I would just like some verification. We have not had any contact to know that this particular bill is supported by the Bishop of the Diocese.

**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 Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you, Madame President. We have in our possession in our committee a letter from the Bishop requesting to be taken off the board. It has nothing to do with the fact that it's in Eagle Lake, or anything to do with anybody in Eagle Lake. It's just that he is sick and tired of being on the board.

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

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

#### REPORTS OF COMMITTEES

##### House

##### Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish a Health Care Bill of Rights"

H.P. 912 L.D. 1294

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-650).**

Signed:

Senator:  
BOWMAN of York

Representatives:  
BRAUTIGAM of Falmouth  
CANAVAN of Waterville  
CROCKETT of Augusta  
TREAT of Hallowell  
CONOVER of Oakland  
PRIEST of Brunswick

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

Signed:

Senators:  
SULLIVAN of York  
SNOWE-MELLO of Androscoggin

Representatives:  
RICHARDSON of Warren  
SAVAGE of Falmouth  
McKANE of Newcastle

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-650) AS AMENDED BY HOUSE AMENDMENT "A" (H-1018)** thereto.

Reports **READ**.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#454)

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

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

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

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

#### ENACTORS

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

#### Emergency Resolve

Resolve, To Create the Blue Ribbon Commission To Study the Future of Home-based and Community-based Care

H.P. 1436 L.D. 2052  
(S "B" S-649 to C "A" H-795)

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

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

#### ENACTORS

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

#### Act

An Act To Implement the Recommendations of the Alternative Education Programs Committee

H.P. 1661 L.D. 2303  
(S "A" S-647)

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

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

#### ENACTORS

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

**Act**

An Act To Promote Transparency and Accountability in  
Campaigns and Governmental Ethics

H.P. 1585 L.D. 2219  
(S "A" S-601 to C "B" H-939)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#455)**

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator  
having voted in the negative, was **PASSED TO BE ENACTED**  
and having been signed by the President was presented by the  
Secretary to the Governor for his approval.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **INSURANCE AND FINANCIAL  
SERVICES** on Bill "An Act To Restore Competition to Maine's  
Health Insurance Market"

H.P. 1226 L.D. 1760

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

Signed:

Senator:  
BOWMAN of York

Representatives:  
BRAUTIGAM of Falmouth  
CANAVAN of Waterville  
CROCKETT of Augusta

TREAT of Hallowell  
CONOVER of Oakland  
PRIEST of Brunswick

The Minority of the same Committee on the same subject  
reported that the same **Ought To Pass as Amended by  
Committee Amendment "A" (H-667)**.

Signed:

Senators:  
SULLIVAN of York  
SNOWE-MELLO of Androscoggin

Representatives:  
VAUGHAN of Durham  
RICHARDSON of Warren  
McKANE of Newcastle

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

Reports **READ**.

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

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

Senator **SULLIVAN:** Thank you, Madame President. Again, you  
are going to see that originally I was on the Ought to Pass. This  
is part of my agreement to keep this alive and open. This was  
one of those bills, like the one we had earlier today, that was  
designed to do a high risk pool between Idaho and Maine. I  
thought it was worthy and in fact I used this piece in my report of  
one hoping to build a coalition. That did not happen. My report of  
one remained a report of one and one is a very lonely place to be.  
Last night, when we passed Dirigo, we used the different form of  
insurance and therefore I will not be on the Ought to Pass. The  
discussions did not come and end the way we had hoped with the  
coalition that protected the uninsured and also moved market  
reform. We settled for something different. Thank you very  
much.

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

Senator **SNOWE-MELLO:** Thank you, Madame President and  
ladies and gentlemen of the Senate. This bill really was a  
bipartisan piece of legislation that Republicans and Democrats  
joined together to try to solve the problem with the high cost of  
insurance in this state. The bill before us we thought, at the time,  
did make common sense and would move us a little bit more into  
the right direction. I know you've heard me go on and on, but  
what is clear is that the reason so many people are uninsured is  
because of the cost. I've really got to stress that. That's  
something we really need to grasp. A reinsurance bill will pull  
together high risk individuals, enabling them to continue to  
receive health insurance even though they are high risk  
individuals. By creating this group we would be able to reduce  
the cost of insurance by redistributing the high costs. This bill

ensures that everyone pays their fair share. Of course it also strikes at the other part of the problem we seek to fix because by lowering the cost we would improve access. With cheaper premiums more Mainers will be able to afford health insurance. With more people insured the cost is more widely distributed, driving down the cost further. Some will argue that this will adversely effect the elderly as they are the ones to consume the most health care. However, as the number of people receiving insurance increases it will drive down everyone's cost, including those who are in the high risk pool. One of the most important things that lowering the cost of insurance will do is increase the number of young people receiving coverage. With younger people on the roles to offset the cost over a greater period of time eventually the risk pool will shrink. In Idaho this does work for the folks that live in that state. I think it does address the sky rocketing premiums and limited access. I believe it does move us in the right direction. I'm still going to continue to support this bill. Thank you.

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 York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President, men and women of the Senate. Let me just explain a couple of things quite quickly. We probably know how we are going to vote on this already, but the fact remains that this literally moves the person out of insurance if you are old and sick. Excuse me, but I think that as we get older we tend to get sick. Those are the people on fixed incomes that can least afford to pay. If you deal with young people at all, they believe that they are never going to die and they are never going to get sick. They are never going to be in an accident. That was the reason for the pilot program that we put in last night, into Dirigo. We made it very flexible to take out the concerns and take out the requirements for older people and put in things for younger people because, just maybe, if you give them something that they will use the service of they might enroll on their own. I cannot in good conscience literally move people into a high risk pool when they need the help most simply because they got old and sick. It's not right. I thought it was a starting point. That we could talk about it. We had a hybrid. It was 17 - 16 because I created a paper pool and you can go back and look at the amendment that I originally had. That's not to happen now. This bill is a real pool. It effects real people. Those people will not be able to get insurance or will not be able to afford the insurance that they could get. Old people, sick people. I would ask you to vote in opposition to the bill, Ought Not to Pass.

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

Senator **SNOWE-MELLO:** Thank you, Madame President. Old sick people also have Medicare. With the current system we have today many people simply do not have insurance. The bottom line is that because the cost is so high they don't have insurance. Moving towards this system, risk pool and reinsurance, gets more people covered. We have a safety net for those that are very ill. They can go on MaineCare. It's for the

elderly. They can have their Medicare. If they are in that bad a shape we do have that safety net that they can be picked up by MaineCare. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President, men and women of the Senate. I rise in support of the pending motion and in opposition to the underlying bill. I think at first blush a high risk pool often sounds very attractive, the idea of moving the folks out of the market in the hopes that it can lower health insurance costs. It's important to bear in mind, however, that simply taking really sick people with high health care costs and moving them, who will pay? It does nothing to lower the cost of their health care. What happens is you simply shift people from an insured system, where it's paid through their premiums, to a government program, where we are dishing out taxpayer dollars to fund it. It's really a matter of a shift from one pocket to another. We've heard in this Chamber many times how people are concerned with just shifting around costs without addressing the underlying problems of the costs themselves. We need to find real ways to lower the health care costs for every individual, including our most expensive. It is by doing this that we will lower health insurance premiums and lower the cost to the system. With respect to expanding the community bands, it's important to understand why we have community ratings in the first place. We had tremendous problems with folks being charged exorbitant rates based on demographic factors, based on pre-existing conditions, and the like. We made a decision that it's not fair that just because you happen to be 50 years old that you have to pay a premium ten times what somebody 18 years old and healthy would pay. That's why we put that system into place. I've talked to a number of folks all across the political spectrum who said, 'Look, I do not want to be faced with a situation where I simply cannot get health insurance, particularly late in my working life or near the end of my working life, simply because of my age.' We have to decide whether we want to shift those kinds of costs onto people. It can be great if you are 18 and healthy, but if you have the least little thing go wrong, not to mention being of childbearing age, suddenly your premiums go through the roof. I don't think making health insurance unaffordable to a segment of the population is the way to lower health care costs overall. Therefore I would urge you to support the pending motion.

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

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. I would agree with that but the facts that I've seen show a little different picture. Those in other states who are in a high risk pool do pay a higher rate, but unfortunately it is what the average Mainer is paying right now. We would reduce the cost for a high percentage and leave a few at what they are paying right now. It would be a benefit. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#456)**

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

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

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

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 527

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

April 16, 2008

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

Dear Secretary O'Brien:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Amend Motor Vehicle Laws" (H.P. 1459) (L.D. 2075).

Representative MARLEY of Portland  
Representative MAZUREK of Rockland  
Representative BROWNE of Vassalboro

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

Senate at Ease.

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

H.P. 1686

**JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO ENACT LEGISLATION TO ENSURE HEALTH CARE FOR ALL**

WE, your Memorialists, the Members of the One Hundred and Twenty-third Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the United States Congress as follows:

WHEREAS, every person in Maine and in the United States deserves access to affordable, quality health care; and

WHEREAS, there is a growing crisis in health care in the United States of America, manifested by rising health care costs, increased premiums, increased out-of-pocket spending, the decreased competitiveness of our businesses in the global economy and significant worker layoffs; and

WHEREAS, most health insurance access is provided through employment, and health insurance premiums have grown 4 times faster than worker earnings over the last 6 years; and

WHEREAS, Maine ranks 5th in the nation in access to health care and 2nd in quality and is committed to maintaining access to affordable, quality health care for all Maine people and all Americans; and

WHEREAS, forty-seven million Americans lack health insurance, with 129,000 people in Maine without health insurance; and

WHEREAS, even those insured now often experience unacceptable medical debt and sometimes life-threatening delays in obtaining health care; and

WHEREAS, those without health insurance suffer higher rates of mortality and a decreased quality of life; and

WHEREAS, access to consistent, preventive health care saves lives and dollars; and

WHEREAS, one-half of all personal bankruptcies are due to illnesses or medical bills; and

WHEREAS, the complex, fragmented and bureaucratic system for financing and providing health insurance consumes approximately 30% of United States health care spending; and

WHEREAS, access to affordable health care will improve the competitiveness of businesses and the viability of our health care providers; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to respectfully urge and request that the United States Congress enact legislation to ensure the availability of health care for all Americans that guarantees quality, affordable health care coverage for every American; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

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

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

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Senate at Ease.

Senate called to order by the President.

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

#### SENATE PAPERS

Bill "An Act To Remove Barriers to the Reorganization of School Administrative Units" (EMERGENCY)  
S.P. 931 L.D. 2323

Sponsored by Senator BOWMAN of York.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **EDUCATION AND CULTURAL AFFAIRS**  
suggested and ordered printed.

Under suspension of the Rules, **READ TWICE**, without reference to a Committee.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#457)

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

NAYS: Senators: DOW, GOOLEY, HASTINGS, 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, was **PASSED TO BE ENGROSSED**, without reference to a Committee.

Sent down for concurrence.

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

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

#### REPORTS OF COMMITTEES

##### House

##### Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Amend Teacher Confidentiality Laws"

S.P. 912 L.D. 2291

Had the same under consideration, and asked leave to report:

That the House **Recede** from **Passage to be Engrossed as Amended by Committee Amendment "A" (S-577)**. **Recede** from **Adoption of Committee Amendment "A" (S-577)** and **Indefinitely Postpone** same.

That the House **Read** and **Adopt Committee of Conference Amendment "A" (H-1024)** and **Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-1024)**, in **Non-Concurrence**.

That the Senate **Recede** and **Concur** with the House.

On the Part of the Senate:

Senator BOWMAN of York  
Senator MITCHELL of Kennebec  
Senator MILLS of Somerset

On the Part of the House:

Representative FARRINGTON of Gorham  
Representative NORTON of Bangor  
Representative MUSE of Fryeburg

Comes from the House, Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-1024)**, in **NON-CONCURRENCE**.

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

The Senate **RECEDED** and **CONCURRED**.

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/8/08) Assigned matter:

Bill "An Act To Restore Positions in the Office of Program Evaluation and Government Accountability" (EMERGENCY)  
H.P. 1667 L.D. 2307

Tabled - April 8, 2008, by Senator **WESTON** of Waldo

Pending - **REFERENCE**, in **NON-CONCURRENCE**

(Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.)

(In House, April 8, 2008, under suspension of the Rules, **READ TWICE AND PASSED TO BE ENGROSSED**, without reference to a Committee.)

Under suspension of the Rules, **READ TWICE**, without reference to a Committee.

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "D" (S-639) **READ** and **ADOPTED**.

On further motion by same Senator, Senate Amendment "E" (S-651) **READ** and **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "D" (S-639) AND "E" (S-651)**, without reference to a Committee, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act To Restore Equity to the Maine State Retirement System"

S.P. 600 L.D. 1693  
(S "E" S-621 to C "A" S-451)

Tabled - April 16, 2008, by Senator **MARTIN** of Aroostook

Pending - motion by Senator **STRIMLING** of Cumberland to **RECEDE** and **CONCUR**

(In Senate, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENT "E" (S-621)** thereto.)

(In House, April 15, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451)**, in **NON-CONCURRENCE**.)

On motion by Senator **MILLS** of Somerset, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENT "E" (S-621)** thereto.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENT "E" (S-621)** thereto.

On further motion by same Senator, Senate Amendment "G" (S-652) to Committee Amendment "A" (S-451) **READ**.

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

Senator **MILLS:** Thank you, Madame President. The posture of the bill is such that this Body has adopted the idea that the rug population should have the benefit of a 3% early retirement penalty as opposed to a 6% penalty. I guess the theory of it is that these were all people who signed up for State service or teaching under a certain set of assumptions and then on July 1, 1993 those assumptions were altered. I'm told by the pension system that there are some 3,700 State employees in this category and some 8,300 teachers, for a total of 12,000 total employees in the rug category. The pension system charmingly refers to the other people as the 'eyes wide open people' because they signed up after the change in the law in 1993. There are roughly twice as many of the 'eyes wide open people' as there are rug people, yet the cost of improving this benefit for the rug people is 2/3 of the cost of the total. It's all because the rug people have been in service now for between 15 and 25 years. Even though there are fewer of them, we have gone for so long now with no contribution being made towards this future pension benefit that the cost of repairing it with a pen stroke is about \$65 million that this bill, in its current posture, proposes to borrow from the pension system. It will increase the annual cost to the General Fund or the State by \$1.9 million a year in the beginning and that escalates, because it's a percentage of payrolls, with escalations in payroll over time. The total cost over 20 years to pay back the loan and to pay the annual ongoing cost of just the rug people is \$203 million, which is 2/3 of the cost of the original bill, which would have fixed everything in the same fashion. It's a large chunk. It's a big step. It occurred to me that if we are of a



mind to do this, and it appears that we are, that we ought to be looking at the pension system more broadly and look at some major alterations to the whole system. Amendment "G" is a proposal for your consideration that comes in the form of a directive to the pension system, to DAFS, and to the health care commission that is overseen by DAFS that manages the State's common health care plan. It is a directive to those three entities to draft up a bill for us for next December. The bill would say that everybody, all teachers and all State employees, hired after January 1, 2010, which is a year and a half from now, would be hired into Social Security as a base for a benefit system in retirement.

The virtues of doing this are many. It gets rid of this infamous government pension offset, which many of you have heard about. It gets rid of the windfall elimination provision, which punishes people if they have benefits under Social Security and also a public pension from some other source. We are one of about a dozen states that still has an exemption for our public employees under Social Security. I see no prayer that Congress will ever remove these offsetting provisions. When these two provisions were introduced by President Regan and Senator Mitchell back in 1985, I believe in order to repair Social Security, at that time they were adopted as permanent changes, alterations, to the Social Security system. As we all know, Social Security is in as much trouble now as it was 20 odd years ago when they repaired it the last time. The very notion that we will ever get rid of these two punishing offsets that effect many of our public employees is unlikely. The only way to get rid of it, frankly, is to adopt a system that puts our new people into Social Security. The other reason, there are many but there is at least one other major reason, why it's sensible to have Social Security at the base of a sensible retirement system, aside from the fact that we cast the University of Maine loose about 40 years ago and they seem quite content being in Social Security with add on benefits, is that one of the great social virtues of Social Security is that it's progressive in its benefit structure. The current pension system for State employees and teachers is exactly linear with your earnings. You get 2% per year times the average of your finest three years of earnings. If you are a well-to-do State employee, somebody making good money, or if you are in administration in the school system, you get a very handsome pension. If you are struggling along in a job that pays only \$20,000 or \$25,000 a year, your pension will be small accordingly, depending on the number of years you worked. Social Security says people who make \$20,000 or \$25,000 should get a proportionately higher benefit than those who were fortunate enough to make \$100,000 or more. You have at the base of this system that predominates in America today a highly progressive system that takes care of people in retirement.

Almost all other states that have Social Security have a bolt-on defined benefit pension for public employees that adds on and is the very kind of linear system that we have today. It is a certain fixed percentage of your pay times the number of years that you worked. This Amendment "G" proposes to add on some form of defined benefit pension and some of the details are actually spelled out in the amendment. That was necessary because the whole purpose of this proposal is to generate actuarially responsible cost estimates that we can look at next January, those of us who return, so that we can actually implement and pass a new system if we choose to. There is nothing about Amendment "G" that compels us to adopt a new pension system based on Social Security but it gives us the tools and the

information that we would need in the 124<sup>th</sup> Legislature to move forward in that direction. Frankly, if I had my druthers and I could figure out a way of just implementing it as the price for granting this rather substantial concession to our rug people I would do it. I struggled with this for the last several weeks, trying to figure out how to do it and it's not within the capacity of my poor brain. I've done the best I can with this thing and said, 'Why don't we tell the experts, here's a portrait of what a system might be, please go out, hire the actuaries within existing resources.' Across Sewall Street they are sitting on \$11 billion. They've got the resources, as is evidenced by this very bill. Let's have the experts tell us how to frame this thing. The framing of it actually is suggested in the amendment but if you don't like what's in there don't worry about it because it's mainly there for pricing purposes. We can look at it. The unions can weigh in on it. We can make some decisions going forward next year. My hope would be that we would pick this up in the 124<sup>th</sup> Legislature and build a new system for new hires and begin weaning people out of this highly unportable system that locks people into careers that they are sometimes unhappy in and feel that they can't leave.

It does other things. Amendment "G" also proposes that we bring all new hires into a common health system, joining up with the State health system that is managed by a commission that has equal numbers of union members and management members. The definition of benefits and co-pays and deductibles under that system is done in a cooperative, open, and public way. It has the virtue of huge buying power. It seems to me that teachers and State employees ought to be in a common system and I think teachers ought to be treated the same in retirement as State employees. We all know they are not. The truth is you've heard the arguments on this bill that we are discussing tonight. 'If we don't reduce the early retirement penalty these teachers will never retire, they will be hanging around forever at very high costs.' Well, they already are. Those that are entitled to retire with a 2.25% per year early retirement penalty are not retiring. The reason is that they have to pick up 55% of their health insurance in retirement and that health insurance bill is growing by, I think, 7% or 8% a year. They can't afford to retire so they are hanging in until they can get on Medicare or get old enough that they can take the chance. It is the health care benefit in retirement that is driving people to stay in service longer than they might choose to. It has nothing to do with early retirement penalties because the teachers that are now staying in service have the benefit of the old system, the one that was so very generous that 2/3 of the legislature twice, in 1992 and 1993, voted to amend that system because it was so, I won't say generous, out of line with what's available in the private sector.

I offer up this Amendment "G". You have to trust me when I say I don't think it does any harm. It isn't as powerful as I had wanted to draft, and that's the reason it doesn't do any harm. It does create a pricing structure. It will create a response from those that know how to price these things and create them so that we will have something to sink our teeth into in January 2009 and possibly design a fresh system for new hires. I offer it up and would appreciate your support. Thank you.

Senator **STRIMLING** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-652) to Committee Amendment "A" (S-451).

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

Senator **STRIMLING**: Thank you, Madame President. Thank you to my good colleague from Somerset, Senator Mills. There is not, necessarily, much that I disagree with in what you are talking about in terms of ultimate outcomes. I think I mostly disagree with the method by which we are getting there at the moment. I think it would be worthwhile for this piece of legislation to be submitted to the next legislature for them to examine it. To come in here at the ninth and a half hour on our last day to propose something this dramatic is too much. The problem is it isn't just an outline, colleagues, it has all kinds of words like 'must' and 'shall' and 'will' and prescribes pretty clearly what it is that this must be, not you could do it this way or let's check it out that way. It says do it like this. When you read it now it reduces retirement benefits, the employer contribution is higher, and it's probably going to be a mandate on the local municipalities. It's probably going to be more expensive than what we do now. We don't know what it is and it's too much for us, tonight in this ninth and a half hour, to be putting this into the bill. Above and beyond all of that, it hasn't had the opportunity for the stakeholders to be part of the process; the teachers to be part of the process, the taxpayers to be part of the process, or the Labor Committee to be part of the process. All of these groups that need to be part of this process in order to get by and to do this right have not been part of it. I don't want to be putting something in place that could dramatically be cutting retirement benefits for State employees and teachers unless we've taken the time to really look at it. Again, I certainly appreciate the goals, and I think there are some pieces that we should look at in the next legislature. I hope you submit this and the Labor Committee takes a long hard look and brings all those players together. It's just too prescriptive. This has already defined what this must be. I would ask my colleagues to support the pending motion to Indefinitely Postpone. Thank you, Madame President.

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

Senator **MARTIN**: Thank you, Madame President and members of the Senate. I couldn't disagree more with the Senator from Cumberland, Senator Strimling, because this is nothing new. It's been talked about for years. Frankly, it is time that this legislature started to deal with the issue. If there is something in which both State employees and teachers agree to it is that our system is not portable. It is not portable. When someone gets stuck being a teacher, after 10 or 15 years there is no other place for them to be but to be a teacher. When they get to be a State employee, and have been here 10 or 15 years, they are also stuck whether they like it or they don't. They have to stay in order to get a retirement because if they leave then they end up with nothing or very little. It is a system that has failed the State employees and teachers. Once you have a teacher, and I've been there, who is tired of teaching, they have nothing they can do but stay. A State employee is in the same boat. We need to establish a system that is portable, where they can go in and out if they so desire. The only way you can do that is with Social Security and some sort of TIA Kreft or any other kind of system in addition to Social Security. That is not something that I have not talked about before, that I have not talked about with both the MSEA and the MMA. It is difficult for them to move. I understand that. This is not requiring them to move. If I had my druthers I would do it effective July 1 and every new employee would be covered by

that system. I understand we can't go there. What we have before us is an opportunity to get it moving. Not that we have to accept it come January, but we at least will have the information to make rational judgments and not postpone again the inability of moving in January. You can't talk to a State employee or to a teacher who does not agree with my statement.

In addition to that, if you are going to have teachers in the State retirement system then we ought to treat teachers like State employees and give them health care when they retire. They are both in the same system and we treat one different from the other. That is not fair. I have teachers in my district who teach in a State school, Sinclair. Guess what? They will have the benefit upon retiring as teachers and because they are State employees they will get their health care. Yet teachers next door in SAD 33, Frenchville/St. Agatha, who teach side by side, will not get that benefit. Is that fair? Not in my book it isn't. That's true in the other State schools, whether they be in Washington County or Penobscot County or other places in Aroostook County. That is going on today. If we are interested in moving ahead with the issue that we have, this amendment does no harm to whether or not you want to vote for the rug or the full plan. You can vote with this and vote the way you want to on the bill. I repeat for those who did not hear me. It does no harm. I would suggest that you vote for this amendment and vote against the motion to Indefinitely Postpone.

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 Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you, Madame President, men and women of the Senate. There are quite a few things here that have been said that I find very attractive as far as this amendment is concerned, but I have been in a situation before in having to vote for something that was a very big piece of legislation imbedded in a budget in which I felt there were many unintended consequences that have come home to haunt us all, I think, in this legislature. I don't think that it has worked out very well because it was such a big issue that was dealt with at sort of a very quick pace. Here's my question, and I'd like to pose a question through the Chair.

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

Senator **SCHNEIDER**: Thank you, Madame President. I'm confused as to whether or not there are going to be sort of mandates with regards to forcing all the different entities to come together in one system, in one insurance system, and how has that been discussed or vetted with the various unions involved and what impact will that have on the various unions that represent these different groups of people?

**THE PRESIDENT**: The Senator from Penobscot, Senator Schneider 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. There are fundamentally two major groups. We have the State employees

and we have the teachers. The teachers are around 27,700 current members. The State employees are around 13,000 or 14,000, as I recall. This only affects the people that are hired new, after a date in the future. It gives us, frankly, a blank slate upon which to create a system that would be based on Social Security and based on parity, complete parity between teachers and State employees. The words 'must' and 'shall' are in this only because they are the words chosen to describe the sort of sample system that is in this amendment for purposes of gaining a response on pricing so we could all take a look at a cohesive system and then nothing goes into law. I don't know how to write it. If I could, I would. I'm right with the Senator from Aroostook, Senator Martin. If I could make this effective July 1, 2008, I would have had it written. I don't know how to do it and be fair and be inclusive. Those are important considerations. I also don't know how to get the conversation started without something horribly concrete in front of us so that we could then make adjustments in response to all these interest groups that you have identified. I will tell you one thing, if we are going to make an alteration in it I want to make it for everybody who may be included and not have this splintering of plans that I have been witness to in just the last 14 years since I started on the Labor Committee. I just think we ought to have a common unified plan. Let's open up the discussion next year about the shape of it. It will be more expensive than our current plan on an ongoing basis, but it will be portable. I've reached the point now that I can tell you that in 1995, when I came to the Labor Committee, we had the benefit of two reports from a guy named Robert Monks and his commission, appointed by Governor McKernan. He said, 'Get these people into Social Security and round them up and do something in common for them.' That's an old recommendation. It's been around for a while. There was a follow up commission called the Reiche Commission whose report was given to us in the spring of 1995 to implement the recommendations of the Monks report. They came to us and they said, 'Well, it's very difficult to get everybody moved over who has already started working because if you give them a choice then you have chaos. How does an employee who is 20 years old make an intelligent choice about whether he should give up his rights in the State system he started in and go into Social Security? How would you make the adjustments?' They threw their hands up and they also said, 'By the way, it will be more expensive because you have Social Security, which is a progressive system. On top of that you have another benefit system. It's better to go with the cheap system you've got and let the well-off employees get a good pension and treat the not-so-well-off employees the way we treat them and let everybody who gets out early forfeit all the State contributions into the system in order to keep the system cheap.' That's the system we have. It's not fair. I have witnessed it drift but I've also been witness to something else. The independent value of portability in the workplace in America today is three times more significant than it was in 1995 when I was first introduced to some of these issues as a member of the Labor Committee. I have now reached the point in my own thinking that I don't care if it does cost more, ongoing, because it will be much more fair and portability which, from a personnel and planning perspective, is so much more valuable to the employer to say nothing of the employee. It is a value worth paying for. Let's find out what it costs. If it costs too much then next year we will all retreat and go back to what we've got. Let's take a look at it and we can't take a look at it without some 'musts' and some 'shall's' and some prescriptive stuff that is in the draft. Thank you.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. Maine, as we all know, is one of the states whose hardworking school teachers and public employees suffer because of the government pension offset at the federal level. There seems to be little realistic prospects for federal action. We need to do something. We need to do something to protect our people. This amendment does not tie the hands of the next legislature, but it does set up a process that will equip them with information so that they can make a thoughtful and rational decision. It will allow an opportunity for public input. I am certain that all of the stakeholders will be heard as part of the legislative process to come. I don't particularly like every aspect of this proposal. I'm not certain about the mandate piece of it, but let's begin the conversation. I think it's a responsible course of action, to put this process in place so that the next legislature will have the information that will help them make a rational decision. I hope that you will join me in opposing the pending motion so that we can move forward and approve this amendment.

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

Senator **GOOLEY:** Thank you, Madame President, men and women of the Senate. I have to own up to being a retired State employee. I do believe that the pension program for all of us who are retired has been an excellent program for us. The good Senator from Somerset, Senator Mills, has come a long way to make the statement that he just did because in the past few weeks he's been talking about the \$300 million shortfall under a cliff over a 20 year period. That does send a message that whatever we were going to do was going to be costly. We've come up with the rug. I really like this amendment. I think it's a real good one. I don't know where the unintended consequences are. I don't see them. In the summary of this amendment, I'd just like to read one part here, it says that the amendment directs the Maine Public Employees Retirement System, the Commissioner of Administrative and Financial Services, and the State Employee Health Commission, within their existing resources, to design a unified pension and benefit plan to apply to all State employees and teachers that are first hired after December 31, 2009, and to design a unified pension and benefit program. In the fiscal part it says that this amendment does not impact the General Fund cost of the bill. I rest my case. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. In my first term I served on the Labor Committee and I had a bright idea for reforming the retirement system and put forward a proposition that was founded on Social Security and a defined contribution plan. I then discovered, after submitting the legislation, that it was more expensive than what we were doing currently. That bill, like many that I put forward, met an untimely death. That said, I've reflected on the cliff bill and the rug bill by themselves. If I were in the position to advise people that this was a good idea or a bad idea I would conclude that it is a bad idea, not necessarily for those who are in the

system today but for those who will come in afterwards, for the new person on the block who comes in and starts out fresh and begins to work their way through the system. The amendment that has been put forward by the Senator from Somerset, Senator Mills, cures that risk for the new person because they go to a different system. All of you have teachers in your districts. You all know teachers. Many of you have State employees in your district and probably know State employees as well. I can't imagine that any employee who reflects on their time in the system as it exists today would not conclude that this is a win-win for the employee. If you are teacher I think it's a win-win because for the first time they get parity on retirement health benefits, which we have struggled and struggled mightily in my 8 years to try to fund. We've gone from 30% to 45%. I would repeat to you, I could not support the cliff as proposed. I could not support the rug as proposed. The amendment that the Senator from Somerset, Senator Mills, puts forward merits our support and I would encourage you to vote against the pending motion of Indefinite Postponement. Thank you.

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

Senator **STRIMLING:** Thank you, Madame President. I really do appreciate all that everyone is saying about what needs to happen here. Although my good colleague from Aroostook, Senator Martin, says he could not disagree with me more, I actually couldn't agree with him more on the fact that we need to look at this system. The only part that I would disagree with him on is that apparently this has been talked about for years and years. I wasn't here back in the 1960s, if that was when they were talking about it, but I don't think they were. I've been Chair of the Labor Committee for four years. I've never seen this bill in front of the Labor Committee. Never has this idea been brought in front of us. People talk about it, sure. People always walk around the halls and talk about how to deal with the offset and deal with the pension and try to understand the cliff and the rug. That's part of what we are trying to do tonight, deal with the cliff and the rug, which is what we should be dealing with. I think it's admirable for us to try to find a process to begin to look at how we can create a more portable system. Of course, no question about it. If we're trying to create a process in which we can have an open conversation, you can't put together a document and throw it out here at the last minute on the last night and say that this is going to create an inclusive process. If we are trying to help our teachers, as my good colleague from Washington, Senator Raye, says, I have to tell you the teacher representatives who are here in this room tonight don't support our doing this. I get it that they are not every teacher in the state, but they are what we have here. They certainly say that we should have a process to go through, but this bill could be submitted. I have been the Chair of the Labor Committee for four years. This bill has never been submitted. Don't tell me that we've taken this up and cast it aside. It hasn't been there for us to talk about. You can submit this legislation. We can get numbers. We can get actuaries. We're very good at doing that in the Labor Committee. We do it all the time. We drive our analyst crazy looking for numbers. We can get it again and we will. There is no reason not to. To say that we've been trying to do this forever and ever and it keeps getting stopped by the legislature, at least in the four years that I've been there, just is absolutely, completely, 100% untrue. I say let's have a good process like this. Let's submit this legislation next year.

Let's sit down and talk about it because there are some unintended consequences. We know that this costs more. We know that this is going to reduce benefits. We are going to force teachers in this state into the State Retirement System. Yes, it is going to be a mandate on our municipalities, the municipalities who are the employers who will have to make the contributions. We're voting to create a more expensive system tonight that will be a mandate if we vote for this without taking any of the time to bring people together to say, 'Here's the legislation. Here are the ideas. What do you think?' This legislation prescribes what the end results should be and asks us to say to put that into law and find a way to implement it. It does not say, 'Let's create a portable system and come together and find the best way to do it.' It says, 'Create this system, find a way to do it this way with these benefits at these percentages.' It's too much. It doesn't bring people together, the stakeholders who have to be part of it. Again, Madame President, I would ask my colleagues to please vote for the pending motion. Let's put this aside and let's have this legislation debated in front of the Labor Committee with the constituents who should be there next year, in the next legislative session. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm in sort of the cul-de-sac on this one and I'll tell you why. I'm a retired teacher. We had some horrendous things that took place between 1983 and 1993. That's really not the issue, but I might talk about that later. In many ways we are talking about individuals in the retirement system that should have had some sort of responsibility for themselves. The Maine Teacher's Association and the Maine Education Association, I felt, were neglectful to say to them that they needed to set aside \$100 a month somewhere along the line to provide for themselves. I was in Presque Isle last weekend at an Inland Fisheries meeting and talked with some people who work for Inland Fisheries. We got talking a little bit about the cliff. I said, 'Did you save? Have you been saving money?' He said, 'I've been saving money on a regular basis. I'm going to do quite well on retirement.' He didn't seem to worry about living solely on a pension.

The other reason I'm in a cul-de-sac on this one is because, if I understand this, it goes as a study. I agree with the good Senator from Cumberland, even though the beverages we've shared in the past weren't to his or my liking I guess. In a sense, I think this is a good topic, and I've talked with my caucus, for a study. It should be done. What there is in this bill, as it stands, is that we have a poison pill here. We really haven't got to the core. This may cost \$300 million in unfunded liability. The Senator from Washington, Senator Raye's amendment might not be that high. We're going to use money that is supposedly surplus money because of a return on the 7.75% on the unfunded liability. The actuaries looked at this money, the surplus money, and we're going to skip a payment to pay this thing. If we have these two things together, the study I like but I don't want to pay \$300 million for it. It's a pretty high price. I apologize to the good Senator behind me. It's a pretty high price, in my mind, to pay for a study. It's a huge amount. I've talked to a Representative down the hall who has some knowledge of investing and I've talked to the actuary that put this, what I call a scheme, forward. They called it wobbly. You could do this bill one time because once

you've assessed an unfunded liability and did the study next year you would not be able to do it again because some of us worry about it coming back year after year. In my mind, to attach this here and to pay the unfunded liability in 2028, a huge bill, a bill every year, I am scared that we would pay a high price for the study and I agree with the good Senator from Cumberland that maybe this should be set aside and taken a look at. At the same time those people that are in a situation where they think they may be hurt maybe should look at their retirement system. The money that you send to them is in index funds. Find \$100 a month. Find \$50 a month. Put it in there from day one. I will be on the side of the Senator from Cumberland, Senator Strimling.

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

Senator **MARTIN:** Thank you, Madame President. Much could be said about the inclusive process, whether it's tonight or any other night, but keep in mind that this is an opportunity that may occur tonight but may not happen again. I just want to remind some members of the legislature that many years ago, when the University System was created and teachers colleges were brought into the University System, the teachers colleges were under the State Retirement System. The University of Maine, of course, was under Social Security. At that time the decision was made by the legislature that those people who were coming in had an opportunity to stay in the State Retirement System or they could go to the University System. All new employees went to the Social Security system, by law. If you ask any of the employees with the University of Maine System today, with TIA Kreft, they will tell you that they are extremely happy that the legislature made that decision for them a number of years ago. That would be exactly where we would be if we were able to accomplish this. If we don't make that start tonight I can guarantee you that we are a long ways away from trying again simply because of the way people's mind operate and the way in which they make assumptions and conclusions. You may not like this, but if you don't want to act on this I can guarantee you that I know where my vote will be on either the rug or the cliff.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I might say this is probably one of the more high level and thoughtful debates we've engaged in all session and I'm very grateful to the good Senator from Somerset, Senator Mills, for raising the debate to this level. I am a bit troubled about where we go from here. It is for this reason; we began our comments with previous study commissions who came up with the notion that people should go to Social Security. I think we mentioned the Monks Commission. I can't recall the name of the other commission. Here we are, many years later, and there is no political will to move in that direction. I don't know why, but I think we need to think about that very carefully tonight. This amendment came upon our desks. We've heard beautiful speeches about equity, about portability, about fairness, and all the things that teachers and State employees want. I have not had one single call from any constituent in my district saying they want portability, they want more equity, or they want more fairness. That's our idea, sitting here debating tonight that there is a clamoring and this is what these people we are talking about

want to have happen. I'm suggesting that if we don't have a more inclusive process about how to study this, if all these things are true if we go to a Social Security system, why aren't they calling us saying, 'Please change our system.' I will not be supporting the amendment because the stakeholders should be a part of the discussion and it should not be prescriptive, as has been pointed out. We are all stakeholders, the legislators, the taxpayers, and the people who live under these retirement systems that we have put upon them over the years. I would like to add, for the good Senator from Aroostook, Senator Martin, I believe TIA Kreft is probably one of the worst investments I've ever been in, so I'm not sure I'm very happy with that particular retirement account. Nevertheless, I will be voting to Indefinitely Postpone the amendment because if we want to go in this direction I don't want to set us up for failure by putting forward something in January that there is so little buy in.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. As the good Senator from Kennebec, Senator Mitchell, just said, there are lots of really wonderful components that I've heard here tonight, about fairness in particular, which I would like us to strive for, for teachers in particular because they do work so hard for our state and are such an integral part of our state. However, I do have real concerns about the fact that I haven't heard from any of my towns on this and how that will impact my municipalities and what we will be imposing on them. I have not heard from any of my teachers in my district on this. I'm just concerned. I'm concerned that it's sort of a rush forward in something that I really don't know a great deal about. The sense that I have is that the real appropriate way to address this very large issue, one that could cost us in the hundreds of millions of dollars, is that it is probably better off addressed at the committee level. You know, we talk a lot about process here. I've heard it from a number of my good colleagues here. About transparency. About what we've done in a rush to push things through. I really feel that this is one of those cases, that we will be making some decisions that are very large, that we really haven't gotten a lot of input in, at least while I've been here and I know I haven't been around that long. That's part of the problem with the short terms that we have here. I do think that this is not the most transparent way to deal with this and I feel sure that if I vote in favor of moving forward with this particular amendment that I will hear from municipalities about their concerns. I don't know that this has been vetted to the degree that is necessary and I appreciate your listening to my concerns. I will be supporting the motion to Indefinitely Postpone because of that.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I am shocked. This legislature has passed, at least every year that I can remember, a memorandum to Congress complaining about offset. We are now hearing the word that you haven't heard from your constituents. Where have you been? Where have you been, because it's been passed in this Body. Every one of the teachers who have not had Social Security for a number of years, or State employees, don't get

what they deserve because of the federal offset. Don't tell me you are not impacted and you haven't heard about it. Where have you been? In another state?

Finally I will say this, to my good seatmate from Kennebec, Senator Mitchell, TIA Kreft has the ability for you to decide where the money goes. You allocate where you want it invested to get the best investments.

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

Senator **STRIMLING:** Thank you, Madame President. Just to respond to my good friend from Aroostook, Senator Martin. Certainly I have heard about the offset. I think what we are saying is that we have not heard about people wanting us to create a more expensive system, a system that is going to decrease their benefits, and a system that is going to be creating mandates. I think what we have heard from our constituents and our teachers is that they want us to get rid of the cliff and they want us to set up a better retirement system so they can retire earlier so they don't lose as much money. We have not been hearing a clamor from people to create this whole new system. They would like our federal government to change it. Absolutely. They probably would like us to take a look at trying to create a more portable system. That's fine. Mostly what I hear is that they want us to get rid of the cliff. That's what we are trying to do. I hope you will join us, regardless of what happens here, in getting rid of the cliff and listening to your constituents.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Savage.

Senator **SAVAGE:** Thank you, Madame President, men and women of the Senate. I don't always agree with the good Senator from Aroostook, Senator Martin, but I have to agree on this one. I have had numerous calls from people on the government pension offset. As far as the portability goes, I would love that if it would have effected me. I'm on a retirement system from a prior job. I'm on this retirement system. Thank you.

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

Senator **GOOLEY:** Thank you, Madame President. Very quickly. I'd like to say that I have heard from a lot of teachers and State employees about the Social Security offset. The other thing I wanted to say is that we're talking about new employees who would be employed after January 1, 2010. It's not anybody existing. It's for new employees. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President. I'll try to be brief. I'm a teacher with 29-1/2 years. When I was elected to this place I retired at 2.5% offset and I have colleagues who are going well beyond age 62, but that's another issue. I'd like to just briefly talk about Social Security. I had other jobs in my life and I actually made some money farming at one time before the Canadians put us out of business. My wife, bless her heart,

married me and she's making some decent money and going to have Social Security. I'll be losing about \$9,000 or better because she happens to be married to me. If she had been married to someone who wasn't involved in the retirement system I could get half her Social Security because it'd be more than mine. I have a dog in this fight in the sense that it would not be corrected. I would just like to point out that on Social Security I understand you don't get it until you are 62. If you were born after 1940 they add one month to every year, so if you were born in 1950 you can get it at 62 and 12 months, or 63. It's a progressive system that is set up, as I understand it, on the actuarial amount of 6.5%. The average female is living into her 80's on Social Security. That's part of the problem with Social Security in terms of deficit, if you will. I'm not sure that Social Security is an answer. My answer, again, is to educate those folks coming into the system to throw the money into some sort of mutual fund early on and not worry about it. I'd like to make just one last comment on the TIA Kreft. There is a gentleman who taught in the University system and he had a bunch of money in there that he left. He then taught in the public school system. He said if it weren't for the TIA Kreft that he would not be living very well today. The Senator from Aroostook, Senator Martin's point was well taken. That was one of the better programs.

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

Senator **MILLS:** Thank you, Madame President. The political problem is that the people we are talking about don't exist yet. They are new hires, after a date in the future. I have personally come to the point in my thinking where I believe it is a matter of immorality to continue retaining new teachers every year and new State employees every year into a system where there is such widespread dissatisfaction. I don't know what anybody's imagining, that they aren't hearing from their constituents. I hear nothing but dissatisfaction from current teachers and State employees. This bill is an example of that deep-seated dissatisfaction with the current system. We are at a point now where there is some leverage, if you will, pressure on us to try to repair some piece of the current system. It seems to me that the very least we should do, on a moral level, is to take the initial steps to make sure that we do not hire any new people into this terrible system any longer than necessary, that we get something in place to help the hires. To be quite candid with you, I have the sense that those that manage the union structures are sometimes content to hire new people into the system because it continues to build pressure on us to spend large amounts of money, as we may do this week, to repair the system for those who are well entrenched in it and who are so dissatisfied with it. If we don't have the moral impetus as a Body to say, 'Let's start thinking about those new teachers, fresh out of school, and new State employees and start saving the system for them.' No one else is going to look out for them. That's why I prepared this amendment. Thank you.

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

Senator **MITCHELL:** Thank you, Madame President. It is clear that I misspoke and let me assure you that I understand the offset

payment. I am a victim of it myself because I'm old and I have retirement and I have an offset. Yes, I have heard that. Yes, I got a phone call from my staff saying they had polled themselves and they like portability. I hear them. I am not deaf and I certainly know that. My quarrel is creating a study order, that no one has had a chance to buy into, which will come back and sit in this legislature next time and we'll be going through this same debate again. That is my quarrel. Believe me, I understand and it just seems almost patriarchal to me that we're standing here tonight saying that we're going to tell somebody how to do this and we'll expect them to come back and like it because it's going to be in a package with a bow around it. I agree with the good Senator from Cumberland, it is prescriptive. I am not afraid of asking people to sit down together because they said they wanted portability and because they don't like the Social Security offset. That really is the red herring here. That's a federal problem, not ours. We can fix this. Again, I just wanted to clarify that I'm not deaf but I will also say for all of you who love TIA Kreft, they do have a terrible investment record. I will compare portfolios with any of you. It's a good thing but they are not good fund managers. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President. The real issue I've heard in teachers' rooms for 29 years. Well, maybe not 29 years because Blue Cross/Blue Shield didn't take off until a few years ago. They can't retire because they are paying half of that Blue Cross/Blue Shield. I think if the Blue Cross/Blue Shield was equal to the State workers, so you had a single subscriber, you would not have the complaints because they would feel they could go out at age 62. I have friends who have been teaching for 40 years. They are well beyond the 62 years. That's what I hear. They understand the offset and understand that is a federal issue and people have been working on it. It will never be solved until something is done with Social Security, I'm sure.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Strimling to Indefinitely Postpone Senate Amendment "G" (S-652) to Committee Amendment "A" (S-451). 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 (#458)

YEAS: Senators: BARTLETT, BOWMAN, BRYANT, HOBBS, MCCORMICK, MITCHELL, SCHNEIDER, SHERMAN, STRIMLING, SULLIVAN, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BENOIT, BRANNIGAN, BROMLEY, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HASTINGS, MARRACHE, MARTIN, MILLS, NASS, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, ROTUNDO, SAVAGE, SMITH, SNOWE-MELLO, TURNER, WESTON

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by Senator **STRIMLING** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-652) to Committee Amendment "A" (S-451), **FAILED**.

Senate Amendment "G" (S-652) to Committee Amendment "A" (S-451) **ADOPTED**.

Committee Amendment "A" (S-451) as Amended by Senate Amendments "E" (S-621) and "G" (S-652) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-451) AS AMENDED BY SENATE AMENDMENTS "E" (S-621) AND "G" (S-652) thereto, in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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#### Off Record Remarks

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On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED** to Thursday, April 17, 2008, at 10:00 in the morning.