

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

In Senate Chamber  
Thursday  
April 12, 2012

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Pastor Stephen MacLeod of Searsport United Methodist Church.

**PASTOR MACLEOD:** Let us be in the spirit of prayer. Creator of all, whether we know You by the name of Yahweh or know You as the Father of our Lord and Savior, Jesus Christ, as Jehovah, or Allah, blessed be His name. You created us all in Your image, that when we look one another we may see the divine in each others faces. We call on You this day in thanks and praise for the blessings that we have been offered, called to serve and called to lead. Whether it be in the name of the Divine or whether it be in the name of the State, we are all called to serve in leadership. The grace and the opportunities offered by this vocational calling are great and our lives have been enriched by it and we have sought to enrich the lives whom we serve by it. As we gather this day we raise up our voices in prayer. We pray first for this world we live in, that the peace, grace, joy, and mercy may be tempered with justice in our world. We pray for all those who serve the lives of innocent people everywhere, from social workers to soldiers. All seeking to protect them from the oppressions of this world and the internal strife they face. We pray for those in leadership around this world, as well as those who cause harm in this world, that all hearts may be turned towards the peace intended for all of creation. We pray for all those in innocence that are in jeopardy due to the imperfections and injustices of our world. We also pray for healing for those brothers and sisters who weigh on our hearts this day as we gather; that healing of body, mind, or spirit may be present in their lives and that divine light may shine into their every darkness, that they too may know the joy, the blessing, and the hope that we stand firmly in and rejoice for its presence in our lives. Further we pray for Your guidance and discernment this day, for whether dealing with the extraordinary or the every day, this Body is gathered together to serve and to lead. Let us be guided by the one whom we are belonging to. Your presence in our lives and Your guidance in our actions, for human agendas and affiliations are as imperfect as human hearts and sometimes it is better to provide what is needed rather than what is simply desired. We ask for Your guidance and we ask that that guidance continue beyond these walls, for in the hope, the grace, and the peace that is instilled in our hearts may be translated to actions and more than just words. As these Senators return to their districts, as they seek to serve the people in their districts, and in those locations, may their actions reflect the guidance and servant leadership You have appointed them to. We ask all these things in the name of Yahweh, in the name of the Father of our Lord and Savior, Jesus Christ, in the name of Jehovah, and in the name of Allah, praise be His name. Amen.

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Pledge of Allegiance led by Senator Nancy B. Sullivan of York County.

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Reading of the Journal of Wednesday, April 11, 2012.

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the following Tabled and Later (4/9/12) Assigned matter:

JOINT RESOLUTION - memorializing the Honorable Dana Charles Devoe

SLS 644

Tabled - April 9, 2012, by Senator **ALFOND** of Cumberland

Pending - **ADOPTION**

(In Senate, April 9, 2012, **READ**.)

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

Senator **SCHNEIDER**: Thank you Mr. President. Men and women of the Senate, I rise in tribute and to honor Dana Charles Devoe, who was a lifelong resident of Orono and an incredibly devoted community member. I know he was a devoted parent and husband because I was very fortunate, when I moved to Maine, to have moved into a house right next door to Dana and Mary Ann Devoe and their family. I got to see them all in action, up close and personally. It was really nice to see such an involved mother and father with all of their children. I was also fortunate because when I got to Orono, fairly early on in my time there, I started going to town council meetings and then I ran for the town council and I served with Dana. Though he was a

Republican, he and I both sat on the budget committee of the town of Orono and he was Chair at the time. Surprisingly, I cannot even remember a time when we disagreed on issues. He was incredibly thoughtful and deliberative in his abilities to think through problems. He cared deeply about the community in which he served, not only the Orono area but the entire region. He was so active in everything he did. It was really a good experience for me, a learning experience, in politics and in community activism, frankly, from seeing how he handled himself. I learned a great deal about Dana Devoe. Of course, he served here in the Legislature, both in the House and the Senate. In that regard, I feel like I sort of followed in his footsteps, to a certain extent. He went to the University of Maine. He went to Orono High School. He continued his law studies at the University of Notre Dame. He was a two time State Champion in the Debate Team. He majored in both history and government. Of course, he was quite adept at extemporaneous debating, because he won that as well. He also succeeded in moot court and was a winner of a moot court competition. My former spouse and I were very involved in the Penobscot Valley Country Club in the sense that he played there, my former spouse. Dana worked very hard as a member of the board, not only as the President but Treasurer for a long time. He really stepped up to the plate, whether in his playtime activities or his work activities. He was actively involved in the University of Maine Alumni Association. When the town of Orono was trying to decide whether or not to build a new public library, I remember, because I was very concerned about our funds, Dana still thought that, moving forward, a public library was critical to our community. He stepped into that. That was a very lengthy process and he stepped up to the plate, not only to serve on the committee but also in the fund raising capacity. This was a person who was involved in his church and the Knights of Columbus. It makes me tired just to read all of the ways in which he contributed to his area and also the state. He was very involved in the Republican Party as well. Though I am a Democrat, I have great respect for people who really step up when they believe in something. He was one of those individuals who definitely did that. He chaired the Judiciary Committee here under the Dome. I know from all accounts that he did a very admirable job. I'm really honored to be able to stand as a person in the Senate and speak in memoriam of one of my predecessors in this Senate seat. He was a good man, a straight shooter, an incredibly intelligent and thoughtful person, and I'm very, very sorry that we have lost him as one of our community members. I'm very grateful to his family for coming down and accepting our words of condolence and caring, to let them know that he will not be forgotten, in particular, in this Legislature. Thank you very much, Mr. President.

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

**Senator PLOWMAN:** Thank you Mr. President. Showing my age, or at least experience, I have known Dana Devoe through the times he came before the Judiciary Committee when I served 8 years in the House. I remember that he was always very thoughtful, very prepared. We enjoyed talking outside of the Judiciary Committee very much. Living in Hampden, he was no stranger in the news and in the community that he represented. I remember his smile. I remember that when you finished talking to him you felt like you had, indeed, been talking with someone who considered you an equal. For me that was something because

this man had done so much and achieved so much. When I first started here I was a lot younger. When you meet someone like Dana Devoe, that makes you feel like you have something to give and that it's recognized and that there is a give and take, that actually means something. It's not something you forget. Dana Devoe was one of those people. I appreciate very much the interaction that I had with him. I'm sorry for your loss. Very sorry. It is a loss that your community and the state shares. Certainly not the pain. I'm sorry, but we share the loss and we appreciate that you came here today. We really do. I was sad to read about it. He was a very, very good man and I enjoyed him very much. Thank you.

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

**Senator HOBBINS:** Thank you Mr. President. Men and women of the Senate, it is with deep regret that I stand before you, but I wanted to share with you some of my thoughts and remembrances of Dana Devoe. I, too, find myself in a time capsule, going back in time. I go back in a time to when I was just sworn in as a member of the bar, 30 years ago. I was very fortunate to have been appointed as the House Chair of the Judiciary Committee. More importantly, having taken that position, which is a responsible position, I was even more fortunate to have Dana Devoe as the Senate Chair. I can tell you that they might say that we are equal chairs, but I can tell you from the standpoint of that committee that Dana treated me with ultimate respect, but he was the Chair. He was someone who had what is known in the terms as a "lawyer's lawyer." He had what is known among judges as a "judicial temperament." We had many opportunities during those years serving on the committee, serving with him as the House Chair and sat there through work sessions and the like. He had a mannerism and decorum and a way in presentation that was remarkable. Part of it goes back to his training. Part of it goes back to the way he was brought up, the way he conducted himself in his own personal life. Whether it was at Orono High School, where obviously he was in the top of his class, or when he went to the University of Maine, we had something very much in common, which we talked about. He was an incredibly loyal alumnus of the University of Maine. He served as a member of the University of Maine foundation. In fact, he was a member when I was a member and when I was honored to have been chosen to be chair of the University of Maine Foundation. He was also active in the Alumni Association. He loved sports. He had a community spirit. Part of that spirit, as many of you might know if he might have shared it with you as he shared with me, is that he had an early calling to be a priest. He went to the seminary. He was a novitiate in the Paulus Order, Paulus Fathers. Part of that order, as with the Jesuits, commits service before self. He demonstrated that all his life as a community leader, as the good Senator from Penobscot, Senator Schneider, mentioned to you when laying out her background and experience when he was a town councilor. He served on the planning board, the zoning board, and on the library committee. He served his community well at the local level. Here in the Legislature, he did the same. He was also an accomplished attorney, as I mentioned, a "lawyer's lawyer." He was considered one of the better, if not the best, real estate attorneys in the greater Bangor area. On many occasions, even up until recently when he retired, about 10 or 12 ago I think he retired around 2001, when I was practicing law, if I

had a difficult real estate issue or question I could always call upon him for assistance. He was that type of person. When he served on the Judiciary Committee, we had significant issues, as that committee has now. We had a unique situation, we had a Democratic House and we had a Republican Senate at that time. It didn't make any difference because that committee has always been a bi-partisan committee and everyone puts political labels at the door when they go and serve in that committee. Dana Devoe never ever put a partisan breath when it came to issues involving the Judiciary Committee and my dealings with him. He was truly, truly a professional and truly a dedicated legislator. As I said before, an excellent speaker, articulate and sensitive. One of the other interesting parts of Dana is that when he went away to law school he met his love. Mary Ann and he met. Mary Ann went to a school called St. Mary's. St. Mary's is right across the pond from Notre Dame. Notre Dame, at the time, was all boys, no women allowed. That was the sister school. Fortunately, through that wonderful devoted marriage, they were blessed with six children. All of them have done extremely well because one of the important components of his life was to make sure that his children were educated. I can remember him saying, before I was married and without a family, "Someday you will be worried about these tuitions too." Dana, if you are looking down and I know you are looking down at us, I am very worried about those tuitions and still am. He put education as one of the major components in life and as a goal and condition to raising his children. Mrs. Devoe, Mary Ann, and to your family, my deepest sympathy. Mr. President, I respectfully request that when the Legislature adjourns this day it does so in honor and lasting tribute to Dana Devoe. Thank you.

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

Senator ROSEN: Thank you Mr. President. I simply want to add my voice to the chorus of remembrance and thank the good Senator from Penobscot, Senator Schneider, and the others who have spoken because what the Devoe family is hearing is the respect and admiration from the entire Legislature, from both parties, both Chambers, and all people that appear on this remembrance. I am personally grateful for the words of encouragement that I had received over the years from Dana, and the fine practitioner that he was, in terms of his legal practice. An absolute lover of language. Loved the use of language. For those of you that had an opportunity to work with him and meet with him, he had what I would call a melodic voice, really, that was very effective. I had the opportunity in the 1970's to sit in one of his Maine State Real Estate Law classes. I still pick up every once in a while a piece of that when we're going through some of our work here. I am happy to remember fondly and with great admiration and add my voice to the people that are expressing our remembrance to the Devoe family. Thank you, Mr. President.

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

Senator DIAMOND: Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to say a couple of words about Dana and to honor his time he was here and of course all of the things that he has done for his community and for the state. Whenever I saw Dana, I was a young legislator at that time, I

always felt I had to stand up a little straighter. I always had to make sure, I always told myself, I just felt had to be careful of the words I used and use proper language. He never said anything to me, but I just felt that was what I had to do. That, I think, tells a lot about Dana and what he's about and the respect that he had. He was in the same group as Sam Collins, Joe Sewall, and types of people that were here to serve the state and their districts. I think the family, Mrs. Devoe and the family, knew that. I think it's nice for all of us, some who may not have had the privilege of knowing Dana, to say that that was what he stood for. I'll always remember him for those fine qualities. Thank you, Mr. President.

**THE PRESIDENT:** The Chair would take the liberty of adding my words to those words that we've heard about the late Honorable Dana Devoe. Dana was a kind, gentle, thoughtful, and encouraging person. He radiated positivity. He was a very uplifting person to be around. I don't think I can ever remember having a conversation with Dana Devoe in which he expressed a negative thought or a discouraging word. He was thoroughly devoted to his beloved wife, Mary Ann, and their children and their grandchildren. When I was a young man, a teenager, I had the good fortune to meet Dana Devoe. As I recall, it was 32 years ago. He was so kind to me. I've never forgotten it. Many years later, when I was running for Congress back in 2002, this man, who I looked up to as just a model public servant and somebody who was sort of on a pedestal to me in the same way that was mentioned with Joe Sewall and people of that generation, out of the blue called me up and said, "Do you need a driver?" I said, "Well, I'd love to have a driver. Who do you have in mind?" He said, "Me." He went on the road with me. That's just the kind of person that he was. He just was willing to do whatever he could to be helpful. He was a good friend. He was a model public servant. He was a role model for those of us who followed him. His integrity and his advice will always be with me. I'm proud to have called him a friend and to have the opportunity to, here before his family, join the Senate in paying tribute to the late Honorable Dana Devoe.

At the request of the President, the Joint Resolution was **READ**.

**ADOPTED.**

Sent down for concurrence.

**THE PRESIDENT:** The Chair is very pleased to recognize in the rear of the chamber wife and life partner of Dana Devoe, Mary Ann Devoe, and their daughter, Theresa. Would they please rise and accept the greetings of the Maine Senate.

The Chair laid before the Senate the following Tabled and Later (4/11/12) Assigned matter:

HOUSE REPORT - from the Committee on **TAXATION** on Bill "An Act To Allow the Town of Fort Kent To Create a Downtown Tax Increment Financing District Using the Current Assessed Value of the Downtown" (EMERGENCY)

H.P. 1414 L.D. 1910

Report - Ought to Pass as Amended by Committee  
Amendment "A" (H-929)

Tabled - April 11, 2012, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, April 10, 2012, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929) AS AMENDED BY HOUSE AMENDMENT "A" (H-933)** thereto.)

(In Senate, April 11, 2012, Report **READ**.)

Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-929) **READ**.

House Amendment "A" (H-933) to Committee Amendment "A" (H-929) **READ**.

On motion by Senator **COURTNEY** of York, House Amendment "A" (H-933) to Committee Amendment "A" (H-929) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Committee Amendment "A" (H-929) **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-929)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (4/11/12) Assigned matter:

An Act To Restore Equity in Revenue Sharing

S.P. 635 L.D. 1835  
(C "A" S-501)

Tabled - April 11, 2012, by Senator **PLOWMAN** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, April 10, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-501)**.)

(In House, April 11, 2012, **PASSED TO BE ENACTED**.)

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

Senator **HASTINGS**: Thank you Mr. President. Ladies and gentlemen of the Senate, before we act on this bill I want to remind us where we are and bring to your attention something I think we distributed yesterday. Just to remind you, this is a bill that increases the mill rate trigger for the Revenue 2 revenue sharing, which the State distributes to the municipalities. At the present time the mill rate is 10%. The bill proposes to increase that to, I think at this point, 13%. The state average, I guess. It is

an increased mill rate. It would not be implemented until we fully fund revenue sharing. I think, based on those numbers, it's currently at funded \$94 million and if went back to our original highest funding level I think it was a percentage that would bring it to \$138 million. What I want to point out to you is that if we increase to full funding, we were told that everyone does better. That's true. If you look at the spreadsheet before you, I have examined my communities and I want to explain why I'm voting against this. When I examined this latest spreadsheet, which shows the effect of full funding at the \$138 million both under the current mill rate of 10% and at the proposed higher mill rate, I discovered that with the current mill rate with full funding my communities will make or receive \$217,000 more than they would receive under the bill before us once we reach full funding. I have 14 communities in my Senate district. Eleven of them will take a funding hit under Revenue 2, under the existing bill, when we reach full funding, and none will benefit. I think many of us may be in that same boat. I think it's important that we all be aware of it. I believe the spreadsheet that I passed out, had distributed yesterday, does show and adds that final column that compares what your communities will receive at full funding, both under the existing mill rate and the proposed mill rate. Ladies and gentlemen, I cannot support this amendment before us now, the pending motion, because it's going to harm, financially, communities in my district. Thank you very much.

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

**THE PRESIDENT:** The pending question before the Senate is 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 (#467)**

YEAS:	Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, PATRICK, SCHNEIDER, SHERMAN, SULLIVAN, WOODBURY
NAYS:	Senators: COLLINS, GERZOFSKY, HASTINGS, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, WHITMORE, THE PRESIDENT - KEVIN L. RAYE

21 Senators having voted in the affirmative and 14 Senators 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.

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

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Senator **ALFOND** of Cumberland 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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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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#### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/28/12) Assigned matter:

**HOUSE REPORTS** - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Protect Maine's Biomass and Forest Products Industries by Allowing Biomass Generators To Enter into Short-term Contracts"

H.P. 1258 L.D. 1706

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-809)** (5 members)

Tabled - March 28, 2012, by Senator **COURTNEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 27, 2012, the Majority **OUGHT NOT TO PASS Report READ** and **ACCEPTED**.)

(In Senate, March 28, 2012, Reports **READ**.)

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

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

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

Senator **BARTLETT**: Thank you Mr. President. I oppose the pending motion and urge us to reject the pending motion and go on to accept the Majority Ought Not to Pass Report. This proposal seeks to allow certain biomass generators to have access to the renewable portfolio standard with the idea that by giving them access to some additional funds we can somehow keep them in business. The problem is that this is a continuation of a failed strategy with respect to our biomass plants. Back in the day, years ago, Central Maine Power entered into a contract with certain biomass facilities to try to keep them solvent. The last of these contracts is set to expire on December 31, 2016. Unfortunately, those prior efforts had cost Maine rate payers significant money and had not helped our biomass plants to remain more stable. The reality is that if these particular biomass plants that we are talking about are to remain competitive, they need to diversify what they are doing. The biomass plants that are having trouble are those that are least efficient, that are simply trying to generate electricity, and have not figured out a way to do a combined power project. For biomass folks to really become independent they need to do it by diversifying what they are doing in locating, or co-locating, near places that can use the heat as well as the power or finding other ways to diversify their efforts. What we are talking about here is a pure subsidy to very inefficient generators of electricity. When we deregulated years ago, the whole concept was that electricity suppliers should be free to compete in the marketplace and those who provided the lowest cost energy would be the ones that would receive the benefits. Here we seem to be saying that we have some facilities that provided some contracts along the way, hasn't proved successful, and haven't figured out how to be competitive, and yet we are going to continue to subsidize their activities. I think if we're going to do it we should do it through a straight subsidy. Let's have a General Fund apportionment to buy the power. Let's buy the power to run government buildings at above market rate, if that's what we want to do. Why shove this into a renewable portfolio standard which simply is working against what that is

trying to do. I think it's well intentioned. One of the things I asked the folks who were proponents to the bill was whether this would make a difference, whether this potential 2¢ was enough to keep them in business. The answer was, "We don't know but we hope so." I don't think we should go down this road without having the full information and knowing that it is going to be effective. We simply don't with this proposal. I would urge you to reject it. Also, as a final note, I would indicate that the sponsor of this bill himself voted against this in committee and did not believe that this really was the best way forward to help the biomass plants. Thank you, Mr. President.

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

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, I know that each one of you have been waiting with baited breath for this very important debate on energy, utilities, and technology stuff. One of the down sides of serving as the Senate Chair of the Utilities Committee is you seldom get to stand on the Senate floor and talk about some of the really exciting and sometimes electrifying issues that come before our committee. Today is one of my rare opportunities to actually talk about something that I feel passionately about. L.D. 1706 was brought to our committee and, quite frankly, it was a direct "ask." It was asking us to enter into long term contracts, or short term contracts, at above market rates. Our committee settled on that being an unacceptable request. That doesn't mean that our biomass industry is not incredibly important to the state of Maine. These generators play an integral part in Maine's economy, particularly the forest products industry. Because of that, we felt it incredibly important that we give some careful and some serious consideration to how we can help our biomass industry, an industry that employs many of our constituents and, quite frankly, millions and millions of dollars worth of commerce occurs because of their work. What our committee Report A, the Minority Report, does is simply give these biomass generators, by the way it is permissive, it doesn't require them to do anything, they can do it if they so choose, they can decide not to, but it gives them access to a very important tool. That's the Class 1 REC market. I know that, at least in our caucus, we've learned a tremendous lot about the REC markets recently and I know that you guys actually are waking up in the middle of the night thinking about them now. I'm glad that we all know and understand that issue. It's really important that we give these generators, who, quite frankly, are being treated differently than other biomass generators based on the year that their facility was constructed, access to this Class 1 REC market. It is a three year provision. They enter into short term contracts with a three year availability to access this market in hopes that, I don't know if that is the right term, they become competitive during that period of time. The good Senator, Senator Bartlett from Cumberland, is right. It would be great for these biomass plants to find other ways to become even more competitive by selling their steam and stuff and things like that. I don't disagree for a minute. The fact of the matter is they employ a lot of people and we need these plants up and running and it is incredibly important that we give them this tool. This is not a windfall. There was a claw back provision. If electric rates actually rise during the period of time that this contract is in place, there is a claw back provision. Where does the money go? Well, it certainly doesn't go into the generator's pocket because the PUC is going to regulate this. It goes to

Efficiency Maine. We all ought to be excited about the potential of more money going back into Efficiency Maine. I urge you to support the Minority Report. Let's send this down to the House and make sure that Maine's biomass industry gets a clear message that this Legislature finds that their industry is incredibly important and Maine jobs as well. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. I, too, support the biomass industry and, in fact, all of it. Let's understand that when we're talking about the Renewable Energy Credits that these folks would be getting, currently some of the biggest beneficiaries under the renewable portfolio standard today are biomass facilities that are efficient, that are co-located, and they are benefiting from access to these markets. You are now allowing very inefficient generators, some of whom have had contracts since the 1990's, at above market rates that have not been able to remain competitive, to bid in now to Renewable Energy Credits. You are essentially reducing the value to the other biomass plants who have been operating successfully and efficiently and have made the decisions necessary to be competitive. I would just read a couple of remarks from the Governor's Office of Energy Independence at the public hearing, who testified in opposition to the bill. They testified that it is recommended that the stand-alone biomass generation facilities need to improve the technologies and efficiencies by considering co-location with other facilities that require a thermal supply, such as pellet plants, saw mills, etcetera. The facility should explore bi-lateral contracts to realize higher prices that would be realized in a wholesale market. The reality is that this doesn't solve a problem. It sort of pushes it down the road. We have had too many years of trying to support very inefficient plants. We went to a competitive market for a reason. We have allowed folks who have upgraded their plants, made modifications, and those that are the most efficient or co-located, to have access to this market. We have tried to apply incentives. When you are doing something productive and doing the right thing, you can have access to this marketing benefit. Now we're saying, for those of you who didn't, come on in. We're going to dilute the market for those who now operate in it to benefit these very few plants. I support biomass. I think it is incredibly important, but it needs to be decided in the right way at the right time. We are not solving the problem through this bill. We're just creating new ones. I think it's the wrong way to go, as the Governor's Office clearly stated in their testimony. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, this is not my area of expertise, but I did have a constituent originally call me about supporting through subsidies biomass plants. At first I agreed, vigorously, with the concept. I also felt it was important to do more investigation into the whole issue. When we were at the pulp and paper industry event, I engaged a number of experts in the field as to whether or not a concept like this would be advantageous. Clearly, all of them thought that the industry was important, that wasn't the issue, as do I. At the same time, was the subsidy the way to go? Every single one of them said that this was not the answer.

However, they did say that what we should try to do is work on something that would help them diversify and use that energy, the heat and that kind of thing, with something, for example perhaps like they do in Madison with the greenhouse for tomatoes. That sort of synergy and that would be more advantageous than a subsidy. They advocated in opposition to this concept. That is why I'm not supporting it because people who are much more adept, who understand this industry far better than I, have suggested that this is not the answer to the problem. Thank you.

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Senator **SNOWE-MELLO** of Androscoggin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'll be brief because I've got very little to say. I didn't want to avoid my opportunity to rise for a second time on this really important issue. By the way, did I mention that this is a utilities, energy, and technologies bill. Congratulations to Senator Hobbins, last term he didn't have an opportunity to speak on a single divided report. We've gotten beyond ourselves on that. I just want to point out that this is a permissive bill. It doesn't require any plant to take any action unless they think it is in their best interest. I also want to point out that this is about maintaining a critical mass. We have an industry that is struggling. They admit they are struggling. We are trying to give them a tool to maintain that critical mass. A tool, quite frankly, that will not cost Maine consumers a dime. I think that is an important point. It will not cost Maine consumers a single dime. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Waldo, Senator Thibodeau to Accept the Minority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### **ROLL CALL (#468)**

YEAS:      Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS:      Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, GERZOFSKY, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

ABSENT:      Senator: DILL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **THIBODEAU** of Waldo to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONSENT**, PREVAILED.

#### **READ ONCE.**

Committee Amendment "A" (H-809) **READ**.

On motion by Senator **THIBODEAU** of Waldo, Senate Amendment "A" (S-539) to Committee Amendment "A" (H-809) **READ**.

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment is a very simple concept. The original committee amendment had a 90-day requirement. You had to be shut down for 90 days due to economic hardship before you could apply to the PUC to qualify for this REC market. This would remove that provision. The reason that it is important is, quite frankly, that for many of the businesses that supply these biomass plants the 90-day prohibition or the 90-day window is a real hardship. Quite frankly, these men and women that work and own skidders and chipper and trucks want to be able to deliver biomass material to these plants. If they are shut down for 90 days, the bankers will be knocking at their doors. I don't think that is in the best interest of the state of Maine or anybody. That removes that provision and allows any plant, even if they are running, to go to the PUC. The PUC, obviously, has to look at their numbers and make sure that they are not able to operate because of economic hardship and it gives them the ability to not have to actually shut down and put our Maine families in tough position. Thank you.

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

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

Senator **BARTLETT**: Thank you Mr. President. Here goes the justification for the bill. There was a justification for the Minority Report. It was to deal with economic hardship, to deal with the folks who were shut down, through no fault of their own, and trying to figure out how to get them back up on their feet. Now we're saying that no longer applies. I don't know. I struggle to understand the rationale for what we're doing. For years, since the deregulation, we've been criticized for the contracts that were put in place to help biomass and other facilities. That criticism resulted from the fact that we were paying above market rates unnecessarily. Now we're going to do the same thing. Again, to the extent that there was justification to do it, it would be based on extraordinary economic hardship. Now we are removing that provision entirely. To me, this just raises questions. What else is going on here? What's the real intent here? Is the intent here to try to rekindle the renewable portfolio standard by getting more folks in? Is the intent to try to reduce the price that's going to existing in-state generators, like the efficient biomass facilities?

What really is going on here? I don't get it. I think there was some justification in extraordinary hardship. I see no justification for removing that provision and allowing anyone now to get in the game. Thank you, Mr. President.

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

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, let me see if I can explain what's going on here from my point of view. We've got people who have invested millions of dollars, at our encouragement, because we told them to. In our infinite wisdom of choosing winners and losers, these people have built biomass plants. They've gone out and bought grinders. A good grinder now is over a million dollars. We're going to have these guys shut down. They've probably got their house on the line to borrow the money to buy this equipment. We're just going to shut them down to allow them to have access to this REC market. It doesn't increase the cost to consumers. It does allow people who need to pay for this equipment, who have people they are employing, who have built these plants to stay open. I've got two of these plants in my district. One in Stacyville and one in Greeneville. They are shut down. I'm not sure if access to the REC market is going to be enough to allow them to operate, but it's a possibility. It's a chance. Let's give them a chance. Why should they not be eligible for the same opportunity that people who have built these newer plants have? We've got generator facilities inside plants and the electrons don't leave the plant, for the most part. They're okay. They can generate the electricity and use it and it is okay, but others aren't. We're in the business of picking winners and losers. What is wrong with us honoring our commitment that we made to these people years and years ago? These people went out and made major purchases, put their financial future on the line, and we're going to pull the rug out from under them. Doesn't seem right to me. I think this is a good bill and we should pass it. Thank you.

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

Senator **BARTLETT**: Thank you Mr. President. I think I may have fallen through the rabbit hole. This is a change of perspectives. We're talking about investments that, by and large, were made years and years ago that were recognized as probably being a mistake in the old days when we picked suppliers. We just made a decision before I got here to deregulate the markets and say, "Look, our goal here is to provide the lowest cost energy to Maine ratepayers, let's have a competitive process by which that takes place. Let's let the marketplace decide." The exception was that we were going to honor certain contracts that were given out years ago to protect the investments. The investments that are being talked about have been protected. Those contracts are set to expire, the last of them, in 2016. What we are talking about, let's just be clear, is an additional subsidy to very specific businesses. Now, I understand the concerns of folks who have been shut down for 90 days. I understand the reason to support the original bill, if you've got a biomass plant in your district that has been shut down. I don't get the amendment. The amendment says you don't have to be shut down for 90 days. If you already have a biomass plant in your community that is shut down, this law isn't going to take

effect for 90 days. You don't have to worry about it. They are going to be eligible. What I don't get is why we're pulling out this requirement if the true reason for this bill is to deal with economic hardship. Let's deal with the economic hardship. What this amendment does is say we're going to throw that out the window. This is not about hardship. This really isn't about mills that are shut down because if they are shut down they would qualify under the original bill. Why in the world do you need the amendment? Clearly, there is some effort to bring other folks in. I want to know who. Who is this bringing in and why? What's the real purpose of this bill? My understanding is that it was to deal with mills that were already shut down. That had questionable merit. Now we're talking about an amendment to say no, even folks that are operating, and maybe making a profit, we're going to allow them to be eligible, I guess. Why are we taking that provision off? There is no legitimate rationale to do it. If the goal of the bill is to deal with hardship, let's deal with the hardship. Let's not add this amendment. Thank you, Mr. President.

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

Senator **SHERMAN**: Thank you Mr. President. Ladies and gentlemen of the Senate, may I pose a question through the Chair?

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

Senator **SHERMAN**: Thank you Mr. President. I'm happy people are concerned about the cost of electrons. We have a whole series of windmills that's going to be across the state. I wonder if those windmill electrons are going to be more expensive, or less expensive, than doing these with biomass. I understand the federal government helps with credits 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 Bartlett.

Senator **BARTLETT**: Thank you Mr. President. Those windmills are bidding into the bid stack at zero. They are going into at zero. In terms of Renewable Energy Credits for most of the wind energy produced in Maine, the Renewable Energy Credits are being paid for by folks in Massachusetts and Connecticut. By and large, they are not bidding in for the Maine RECs. Any additional costs are being borne by the folks in Massachusetts and Connecticut. It's actually a great deal for Maine. We're allowed to get the economic benefits in terms of the property taxes and community benefits that are being paid to Maine communities. We get all the benefits and the folks who are paying a premium, by and large, are the folks down in Massachusetts and Connecticut. This is a good deal for Maine. Thank you, Mr. President. This bill doesn't address that issue.

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

Senator **SHERMAN**: Thank you Mr. President. Second question through the Chair, please?

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

Senator **SHERMAN**: Thank you Mr. President. As I understand it, there is \$300 million worth of lines, that the State of Maine will be paying some portion of that money and that will come out of the ratepayer's pockets.

**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 Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you Mr. President. I'd like to pose a question through the Chair?

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

Senator **SCHNEIDER**: Thank you Mr. President. What do these questions have to do with this amendment?

**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 Aroostook, Senator Sherman.

Senator **SHERMAN**: Thank you Mr. President. I thought we was talking about cheap electrons.

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

Senator **THIBODEAU**: Thank you Mr. President. I certainly don't want to respond to anything that isn't part of this amendment, so I won't make any comments about a third of the construction costs of these windmills being paid for by the federal government. With that, I did want to point out that, for any of you who are wondering about some of the earlier comments, the good Senator from Cumberland, Senator Bartlett, was not questioning the motives of any members here. He was making reference to the bill. I did get clarification on that. Any of you that was wondering whether or not he was questioning motives or not, he was not. The question before us is the purpose of the amendment. Somebody said, "What is the purpose of the bill then?" Well, let's be clear. The purpose of the bill is to maintain jobs here in the state of Maine. The purpose of the amendment is to keep small Maine businesses from failing, financially, before these companies can go to the PUC and get contracts so that they can stay open and, quite frankly, feed their families and pay their bills. Thank you.

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

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, would like to pose a question through the Chair.

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

Senator **JACKSON**: Thank you Mr. President. Is there absolutely any provision in here to make sure that those Maine businesses are using only Maine workers and not foreign labor through the H2 process?

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Waldo, Senator Thibodeau to Adopt Senate Amendment "A" (S-539) to Committee Amendment "A" (H-809). 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 (#469)

**YEAS:** Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **THIBODEAU** of Waldo to **ADOPT** Senate Amendment "A" (S-539) to Committee Amendment "A" (H-809), **PREVAILED**.

Committee Amendment "A" (H-809) as Amended by Senate Amendment "A" (S-539) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-809) AS AMENDED BY SENATE AMENDMENT "A" (S-539)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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#### Off Record Remarks

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

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#### Senate at Ease.

Senate called to order by the President.

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#### Off Record Remarks

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

**ENACTORS**

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

**Emergency Measure**

An Act To Amend the Law Regarding the Sale of Wood Pellets and Wood

H.P. 1219 L.D. 1610  
(CC "B" H-937)

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

**Emergency Measure**

An Act To Revise the Target Prices for the Dairy Stabilization Program

H.P. 1409 L.D. 1905  
(S "A" S-535; S "B" S-546)

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

**Acts**

An Act To Amend the Laws Pertaining to the Maine Economic Improvement Fund

H.P. 1393 L.D. 1885  
(S "A" S-548 to C "A" H-893)

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

An Act To Strengthen the Unemployment Insurance Laws and Reduce Unemployment Fraud

S.P. 589 L.D. 1725  
(C "A" S-483; S "C" S-545)

On motion by Senator **ALFOND** of Cumberland, 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 (#470)**

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN

20 Senators having voted in the affirmative and 15 Senators 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.

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

Senate at Ease.

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency Measure**

An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013

H.P. 1412 L.D. 1907  
(C "A" H-931)

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

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, I don't intend to vote against this or object. In fact, I'll vote for it if there is a roll call. I want the Body to know just how strongly I feel that this public safety split, where we require the Highway Fund to pay 49% of public safety, is wrong. We need to do something about it. I know that I can't do it by myself, but I'm going to cause a stink for every minute that I'm here until it's changed.

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.

Ordered sent down forthwith.

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### ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/29/12) Assigned matter:

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Lower the Price of Electricity for Maine Consumers"

S.P. 648 L.D. 1863

**Majority - Ought to Pass as Amended by Committee Amendment "A" (S-494)** (8 members)

**Minority - Ought to Pass as Amended by Committee Amendment "B" (S-495)** (5 members)

Tabled - March 29, 2012, by Senator **THIBODEAU** of Waldo

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495)** Report

(In Senate, March 29, 2012, Reports **READ**.)

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

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, I know everybody here is excited to know that we've got another Energy Utilities and Technology bill to debate this afternoon. We've all become experts in the REC market. What we've got before us here today is a very important bill that was brought to us by the Chair of the committee, Senator Thibodeau, a great guy. When you start talking about yourself in the third person doesn't that suggest somehow there is something wrong? Apparently it does. Ladies and gentlemen, this is an awkward situation because we can't talk about the amendment that will be offered as soon as we accept the Minority Report. I'm hoping that we do accept the Minority Report. The fact of the matter is that it is a very important subject. The discussion revolves around whether or not we lift the 100 megawatt prohibition on hydroelectric generators and give them access to our renewable markets. In some cases it may be renewable markets we're talking about now, but in the future we'll be talking about simply Class B markets. I would encourage you that this is an important step to take on behalf of Maine consumers and Maine ratepayers. This prohibition is, in my estimation, very

arbitrary. We need the lowest priced electron delivered to Maine consumers at the best possible price that we get for them. This is what this is an attempt to do. It is simply a tool that will be given to the Maine Public Utilities Commission to go out and solicit long term contracts at below market rates. Thank you, Mr. President.

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

Senator **BARTLETT**: Thank you Mr. President. When this bill was brought forward I had a number of concerns, but I did recognize an important kernel in the bill that I thought was very productive. The idea is that we should go to bid on a substantial portion of our electricity, 25% standard offer, to see if we could get lower prices for people. We all want lower prices for Maine consumers. That part made sense. Unfortunately, what this bill does is go much further and say that what we want to do is try to enter into a long term contract with one provider, that one provider being Hydro Quebec. You may look at the bill and say, "I don't see anywhere in the bill where Hydro Quebec is mentioned." When you are lifting the 100 megawatt cap on hydro, there is only one provider with access to the New England markets who can bid. That is going to be Hydro Quebec. When you see the 100 megawatt limit, that's what it is about. Lifting that limit is about striking a deal with Hydro Quebec. On the face of it, that may seem reasonable. We absolutely should be talking with Hydro Quebec. We also should be talking with our friends in New Brunswick, with nuclear power stations to our south and west, and talking to providers both in-state and out-of-state to see what the best deal is and then to negotiate that deal. If there are changes in the law that are required to effectuate that, bring it back. That's what the majority of the committee felt we should do. Let's open this up so that it is not just about one provider, Hydro Quebec. Let any energy supplier with access to our markets come in and bid. That's how you're going to get the lowest rates. To think we're going to get the lowest rates by going after one particular entity and nobody else is ridiculous on its face, to think that that's going to get you the lowest price.

Also what this bill doesn't do, it doesn't simply say, "Let's go and negotiate with Hydro Quebec and bring a deal back," it says, "Look, let's let them into our RPS so we can dangle a carrot in front of them in the hopes that they will do something great. That they will come forward with some great deal for us." History suggests that that has not worked very well. Vermont entered into a deal with Hydro Quebec, a deal that they are now paying above market price, substantially above market price, for their electricity. Years ago CMP tried to negotiate with Hydro Quebec. Was offered a price of 9.5¢ per megawatt. That would be almost twice the market price right now if we had entered that deal. To think that Hydro Quebec is some charity institution that is looking to come in here and is going to give us a great deal is ridiculous. They are a business. We're giving them access to our renewable portfolio standard and to our renewable energy credit market and getting nothing from it. In fact, if you look at the laws of Quebec, they make very clear they don't have the same constitutional barriers that we do. They get to say very specifically, "If you don't produce power, renewable power, in Quebec it is not eligible for our renewable portfolio standard." They are very explicit about it. Why? Because they are protecting their in-state production. Here we are, unleashing the shackles, letting them in. The bill, as written now, says in order to get there you've got to enter into a new contract for that percentage of the power that's 10% below

market. Then you give them access to the direct market, the renewable energy credit market. Suppose the current rate is 5¢, they offer you a 10% deal so now you get it for 4.5¢. Then to go sell the REC for 2¢. You are now paying 1.5¢ above market for that power. When you are looking at this 10% reduction, that's only part of it because the renewable energy credits are being paid for by Maine ratepayers. You have to look at that combined price.

I have no objection to Hydro Quebec selling us energy at the market price or below market price. I do have an objection to having them come in and have access to our renewable portfolio standard, undercutting Maine based renewables in the process. Why would we want to do that? Why would we want to hurt biomass generators in the state of Maine who are benefiting from this renewable energy credit? Why do we want to give this giveaway to Hydro Quebec? Is there a good enough idea out there? There might be. I asked the Governor's Office repeatedly. What's the end game here? What can you get? This just doesn't add up to me. Is there something going on? The answer is, "No, we just think is a carrot we can dangle in front of them to get a better deal." As the debate has gone on, what we've heard is, "Well, maybe there is a transmission deal in the offering, because Hydro Quebec would love to put a transmission line through the state of Maine to get to Southern New England." That's what they really care about. Getting access. That might be a great thing. In fact, we have passed energy corridor legislation which has allowed them to facilitate energy corridors to move energy from one end of the state to the other. One of the things that we had in mind was potentially a deal with Hydro Quebec or New Brunswick. We also have in existing law long term contracts that could be entered into. If what we are concerned about is a transmission line, or even just cheaper energy from Hydro Quebec, the Governor should be going and negotiating a memorandum of understanding with Hydro Quebec and say, "What are the terms and what changes in the law are necessary?" Then bring those changes back to the Legislature once we've got the deal. Then we can effectuate them. That's the approach to take. That's the approach the Majority takes. Let's go negotiate the deal. While we're negotiating with Hydro Quebec, let's make sure that everybody else out there, including nuclear plants and traditional fossil fuel generator plants, know they can bid too, that they can come in and try to undercut Hydro Quebec because that's how you're going to get your best deal. If this bill is making the best deal for Maine consumers then you ought to go with the Majority Report because that's going to say, "Let's have Hydro Quebec bidding against everybody else who wants to get in this game." For some reason we have a singular focus on Hydro Quebec. There have been no MOU signed. There are no specific terms in the agreement on there. We're just simply dangling and saying, "Let's take a shot with them." I think it's short sighted. The reality is that you can't get a deal entered into immediately anyways. You're not going to be able to get a deal, a contract, effectuated between now and January. Why not let the process play out? Have an RFP done, as the Majority Report would suggest. Have an RFP done and have anyone, including Hydro Quebec, bid on it. Ask them to include any changes in law that are necessary to give us a better deal. Those can come back to the Legislature in January and then we can make an informed decision. What you are being asked to do is to make a decision without full information. You are being asked to give a carrot to Hydro Quebec without getting anything in return. To think they would do that for us is ludicrous. I met with the folks

from Hydro Quebec. They are great people, but they want to sell their power at market rates, or above market rates, here in New England. That's what they want to do. They don't want to give us a great deal. If we can negotiate a good deal for a large amount of supply, great. Let's do it. Let's get the terms of the deal on the table so we can make an informed choice. What you are being asked to vote for with this report is a misguided sense of savings. A 10% savings off your price. When you add the renewable energy credit to it, it's probably more than you could get right now. They would be happy to sell at market current rates. I'd urge you to oppose this report and let's go on to a report that, quite frankly, is more conservative and more targeted at getting the best deal for Maine people.

I'll be honest. When this bill first came forward, when I started hearing about it, I was really concerned. I said, "Man, this is crazy." When I looked at what the core premise of it was, which was lowering the rates for Maine people by taking a substantial part of our load and sending it out to bid, that made good sense to me. I said, "That part we can salvage." That part is what we ought to be doing, finding creative ways to solicit good bids for lower prices. The Majority Report does that. I hope you will join me in rejecting this proposal and let's go on and do something that has the best chance of reducing rates and will do it by the maximum amount for Maine people. Thank you, Mr. President.

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

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, obviously Senator Bartlett has been waiting for a long time to debate these issues as well and wanted to make sure that he gets his opportunity. It's exciting to debate energy bills and Senator Bartlett and I have been looking forward to this for months. Let me suggest to you that Senator Bartlett, the good Senator, asked a very important question. He said, "What is the end game?" The end game is pretty simple. The end game is below market rates at time of delivery. That's what this bill allows the PUC to enter into for contracts. Below market rates. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Waldo, Senator Thibodeau to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (S-495) 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 (#471)

**YEAS:** Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS:      Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion Senator **THIBODEAU** of Waldo to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495)** Report, PREVAILED.

**READ ONCE.**

Committee Amendment "B" (S-495) **READ**.

On motion by Senator **THIBODEAU** of Waldo, Senate Amendment "B" (S-555) to Committee Amendment "B" (S-495) **READ**.

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, I appreciate you all remaining in your chairs as I rise for the fifth time today. I want to tell you about Senate Amendment "B". Senate Amendment "B" is something is the result of a compromise. We all recognize that when we come down here we would all like to have our own way, but the fact of the matter is there is 35 opinions in this Body and they all count. This is an amendment that is a compromise. This will give the hydroelectric generators with greater than 100 megawatts of generation capacity access to the Class 2 REC market, not the Class 1. Pretty simple amendment and I hope you all will support that. Thank you.

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

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

Senator **BARTLETT**: Thank you Mr. President. I have no idea who the compromise is with. It certainly didn't include me. In fact, I think this proposal takes a bad proposal and makes it worse. What it does do is, by moving it from Class 1 to Class 2, creates a different set of losers. There are folks who lost out, or potentially were harmed. Maine producers who were harmed in the Class 1 REC market. They will be moved into the Class 2 market, so now we are hurting different people. For example, in the Class 1 REC market there are a number of biomass generators who are very concerned about this and who were very vocal in opposition to it. This proposal, by moving it to Class 2, helps them out a little bit, but it hurts other folks. When we're talking about the Class 2 REC market, this is our original RPS that was set up at the time of restructuring and it was set up to protect Maine based renewables that were already in existence: 89.9% of the Class 2 REC go to hydro, that is small scale hydro here in the state of Maine; 3.5% go to biomass; 6.3% is municipal solid waste; and .2% to landfill gas. These RECs don't go for a lot of money, but they are designed to continue to help protect

Maine based renewables. That is why this was put in place at the time of restructuring, to make sure that they were protected. Moving out of the Class 1 into the Class 2 and now you're potentially displacing Maine based renewables like small scale hydro, municipal solid waste, and others. You're just trading losers.

If that was all it did that might one thing, but it does something else which I find really peculiar. In the original proposal it indicated that any contract had to be 10% less than the prevailing market rate. This removes that cap, so it just has to be less. We're going to allow Hydro Quebec access to our REC market, even if the price is one-thousandth of a cent less than what we're paying now. Then they get to go sell their RECs in our market, displacing Maine based renewables, and make above market rates. This is actually, for some reason, more frustrating than the original proposal because it is going to do even less to try to help Maine people. It really raises the question again, what is this about? Why have we been working so hard, desperately, to produce this? This is not a huge incentive to Hydro Quebec. We're not waving something great in front of them. This isn't going to give them a lot of money. In exchange for that, we're undercutting our current Maine based renewables and allowing Hydro Quebec to collect above market prices in the state of Maine. I thought the goal of the bill was to reduce electricity prices. If that is the goal, you should definitely reject the amendment. It just doesn't accomplish its intended purpose. If you truly want to lower prices, why don't you want a competitive bid? Why don't we want to have a competitive process, to go out and see if anyone else could bid? It would actually put Hydro Quebec to the test. Can you give us a lower price? Is it going to be enough lower to justify displacing Maine based energy? If it is, then let's have that discussion. If the price is so good that it's worth giving up the protection of Maine based renewables, then let's do it. Just moments ago we debated another bill around biomass where we said it was worth protecting a Maine based industry. Here you go, allowing Hydro Quebec to come in and undercut Maine based renewables. Yet, we get to pay higher prices to boot. I don't get it. I just don't get what this is about. If this is about transmission, let's have an honest conversation about transmission and what we might be able to do. We've already done a number of things to expedite approval of a transmission line. Is there something else we can do? Let's talk about it. Is there a particular contract in mind? Is there something hanging out there that we're not being told? If it is, bring it forward. Give us the information so we know what we're voting on.

You might think, "Well, we need to do this today to get this carrot out there so we can get a deal in place immediately." You could be wrong if that was your assumption because this bill has major substantive rulemaking in it. The rules are going to come back in January anyways. This isn't going to go into effect until next year. Why in the world aren't we going with the Majority Report which puts a ROP out to Hydro Quebec and any other generator in the Northeast; in Canada, in New England, in New York, anywhere with access to our markets. Let's say, "Give us your best price". Bring it back in January and we'll make the changes to the law that you need. You might find a better deal with a nuclear power plant that's trying to sell their energy. You might find a better deal with a struggling fossil fuel generator that's trying to sell its energy. Yet we are singularly focused on Hydro Quebec and a deal that can't get put in place until next year anyways. I've been doing energy policy since I got to this

place. One of the great things about the committee is that we've really worked generally in a bi-partisan way. We've put together policies around the renewable portfolio standard with broad bi-partisan support. We've put in policies around efficiencies with strong bi-partisan support. We did the transmission corridor and all sorts of great things around energy with strong bi-partisan support. It's frustrating to sit here and have a really bad policy in front of us. You have a bi-partisan majority in the committee that said this is not the way to go. There is a better way. There is a solution that gets to what you want, lower energy prices. It does it in a way that is responsible in trying to get us some lower prices. Why in the world are we turning our backs on that? We have partisan debates up here all the time and they are fun and they are lively. When it comes to core energy policies, we generally find a consensus. I think that matters to Maine people. It's helped to keep prices coming down. This is really frustrating to watch because this is bad policy and ultimately is going to be bad for Maine ratepayers. Thank you, Mr. President.

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

Senator **SAVIELLO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to thank the good Senator Bartlett for what he just brought up about what we're protecting because that's why, in fact, on this particular bill I didn't support either report. I wanted to make sure the biomass industry is extremely protected for a couple of reasons. One, we continually send a message to businesses that make large investments that we want them to come here. We're going to give you all these incentives. As soon as they come here and they make a \$40 million, \$50 million, or \$100 million investment we change the rules. It becomes frustrating to them. This was going to be an attempt, in my mind, of changing the rules. When I first got here, 10 years ago, it seems like yesterday, I can remember the conversation that had happened just prior to me coming here about renewable sources and made sure, in the work that I did, that biomass is included in that. Biomass can be used to improve the civil culture of the forest as well as produce energy. My concern was that the way this bill was written is that that would be lost. It's more than energy in this particular case. It's about the manufacturing jobs that are associated with it and about the number of people that work to help bring that resource to those facilities. Thank you very much, Mr. President.

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

Senator **PATRICK**: Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I'm rising today, having very limited experience on this whatsoever. I do want to stand here and say I'm in opposition to this amendment. I was in opposition to the bill on behalf of my constituents. Just like in L.D. 1333, I was able to stand up there and basically say that I think I'm going to be able to say I told you so, that the rates on health insurance for people who were in rural areas of average age or older were going to take a pounding. I really think that I'm scared to death of this. I'm hoping that I will never have to say I told my constituents that I told you so, but I'm going to say that. I'm going to be able to say I think I told you so because this sounds bad. I want to thank the good Senator from Cumberland for so eloquently explaining what this is all about and I hope that if this

passes it comes out right. To me, it sounds horrendous and if the constituents and the citizens of the state of Maine have to pay a penny more as a result of what we do we'll end up saying shame on us. Thank you, Mr. President.

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, I didn't want to miss my last opportunity to speak to an energy bill before we adjourn the 125<sup>th</sup> Maine Legislature. I appreciate your patience. I just want to bring some focus back. We've heard a lot of things said here this afternoon about the energy policy that is before us. Remember, the end game is simply to deliver below market rates to Maine consumers. Long term contracts at below market rates at time of delivery. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Waldo, Senator Thibodeau to Adopt Senate Amendment "B" (S-555) to Committee Amendment "B" (S-495). 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 (#472)**

**YEAS:** Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **THIBODEAU** of Waldo to **ADOPT** Senate Amendment "B" (S-555) to Committee Amendment "B" (S-495), **PREVAILLED**.

Committee Amendment "B" (S-495) as Amended by Senate Amendment "B" (S-555) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-495) AS AMENDED BY SENATE AMENDMENT "B" (S-555)** thereto.

Ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

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

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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 Establish the St. John Valley Regional Planning Commission"

H.P. 578 L.D. 771

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

That the House **Recede** from **Passage to be Engrossed as Amended by Committee Amendment "B" (H-865)**; Recede from **Adoption** of Committee Amendment "B" (H-865) and **Indefinitely Postpone** the same. **Read** and **Adopt** Committee of Conference Amendment "A" (H-948) and **Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-948) in Non-Concurrence**.

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

On the Part of the House:

Representative DOW of Waldoboro  
Representative AYOTTE of Caswell  
Representative TUTTLE of Sanford

On the part of the Senate:

Senator RECTOR of Knox  
Senator MARTIN of Kennebec  
Senator HOBBINS of York

Comes from the House, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (H-948)**, in **NON-CONCURRENCE**.

On motion by Senator **RECTOR** of Knox, the Senate **RECEDED** and **CONCURRED**.

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

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Senator **JOHNSON** of Lincoln was granted unanimous consent to address the Senate off the Record.

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**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:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Make Additional Supplemental Appropriations and Allocations and To Change Certain Provisions of the Law for the Fiscal Years Ending June 30, 2012 and June 30, 2013" (EMERGENCY)

H.P. 1405 L.D. 1903

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-938)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-938) AS AMENDED BY HOUSE AMENDMENT "F" (H-949)** thereto.

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

**READ ONCE.**

Committee Amendment "A" (H-938) **READ**.

House Amendment "F" (H-949) to Committee Amendment "A" (H-938) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-938) as Amended by House Amendment "F" (H-949) thereto, **ADOPTED**, in concurrence.

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

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

**Senator ROSEN:** Thank you Mr. President. Men and women of the Senate, just a few words. You have before you the second supplemental budget this session. I simple want to acknowledge the work of the members of the committee; Representative Flood, the Chair from the other Body, Senator Hill, and Senator Katz for their very hard work on this supplemental budget. Representative Rotundo, as the Lead in the other Body. All the members of the committee. Representative Winsor, Chase, Fredette, Keschl, Clark, Martin, Webster, and Stevens. All having done an excellent job in pulling this agreement together. I also want to mention and recognize Grant Pennoyer and the entire staff in the Fiscal Office; Maureen Dawson, our principle analyst; Commissioner Millett; and the faith that our leaders put in us and provided to the members of the committee, leaders of both caucuses and both Chambers, and your support in helping us report this bill out. A couple of quick highlights, if I may. Seventy-three percent of the spending in this supplemental budget goes to three items. Number one, the disproportionate share of hospital funding for people that are in secure custody as a result of criminal charges. Stepping up and funding that obligation that the State has. Number two, funding the shortfall in child development services. Number three, funding the shortfall in the General Assistance account. The bill also includes reforms related to General Assistance. Some may consider the proposal that survived related to General Assistance as half hearted and insignificant. You need to realize and appreciate that the intensity of the negotiations and the level of significance as it relates to the progress of the measures that are in this budget pertaining to General Assistance are significant. They are significant because the members of the committee listened. The members of the committee listened to the Mayors of the larger communities. We listened to the welfare directors that manage these programs. We listened to the people in the smaller communities. I believe the report before you reflects that input, understanding and appreciation that the steps that we have all agreed to in this report are prudent and those that we rejected needed further work. This bill also includes a significant policy initiative related to the reassignment of all of the functions in the former State Planning Office and the establishment of the new Office of Policy and Management. I appreciate and hope that we have earned your support. I appreciate the work of the members of the committee. Finally, I would like to simply say that those of us on the Appropriations Committee acknowledge, with our effort that we put into this budget, the passing of Kathy Crowley Fuller, who served many years in the Office of Fiscal and Program Review. We all dearly miss and acknowledge the loss that her colleagues have suffered but have continued to persevere and stay with us day and night to produce the document that is now before you. Thank you, Mr. President.

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Off Record Remarks

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

**Senator HILL:** Thank you Mr. President. Women and men and the Senate, after voting out a unanimous budget close to midnight on Monday, I had the interesting experience of having people, the next couple of days, say to me that they were not completely happy with the budget or not totally happy with the budget or maybe they were happy with the budget. As I said, I found this interesting and I reflected on it a little bit because budgets I don't think are about making people happy. Never during the course of the five budgets that we have worked with in the 125<sup>th</sup> Legislature did the Appropriations Committee members do the work to make people happy. Nor did they do it to make people unhappy. To do so would have really set us up for failure. Instead we focused on keeping government running and doing its work for the people of Maine. These people come from all walks of life, with diverse needs and very diverse opinions. Rather than happiness, we strived for a budget that is safe, smart, structural, sensitive, and solid. In L.D. 1903 we achieved such unanimously. We kept funding for MPBN, higher ed, and the Fund for a Healthy Maine. We funded court security, indigent legal services, the computer crime lab, the Fire Marshall's Office, and we funded and made structural changes to CDS and General Assistance. We did this all with minimizing the shift of cost to municipalities and taxpayers. I owe a great gratitude to the committee, as a whole, and especially to Chairman Rosen, who is the consummate professional, and also to the good Senator Katz, who is always a pleasure to work with and works very hard, as I know because we sit right next to each other. I do hope that you will think about what's really important about this budget and what it does for the people of Maine and I ask my colleagues to vote for it. Thank you, Mr. President.

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

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

**Senator DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, just a brief word. I commend the Committee on Appropriations for all of their hard work and five unanimous budgets. It doesn't surprise me, knowing the people on that committee. It's a fantastic job. I do want to make one little point, Mr. President. That is that I'm not sure the people of Maine yet realize a quiet little thing that this committee did. That is for the first time, because of the support of the Criminal Justice and Public Safety Committee and others, we now have enough people in the Computer Crimes Unit to start addressing the backlog of evidence, where predators are now going free and won't be for long. We're coming after you. The Appropriations Committee has made that certain and I want to thank the Committee on Appropriations. In a time of cuts and reductions they actually hired three more people, forensic examiners and detectives, to deal with this all important issue. The people of the state of Maine need to understand what a great job they did. Amongst other things, but to me and others the most important thing they did was to provide that kind of expertise to help these kids. Thank you very much.

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

**Senator JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I'm sure I'm one of those people that spoke with Dawn and said I'm not happy with everything in this budget. I'm sure that actually most people in this room share that feeling on one aspect or another of this budget. Rather than focusing on those things, I'd like to just take a moment to focus on something that I think is very positive in what was done by this committee. I'm very appreciative of the effort made on GA in terms of trying to put something in place that would help manage the cost and the ability to provide services to people both with the pilot project. I see that as a very smart and responsible thing that has been done on GA. Thank you.

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed. 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 (#473)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOF SKY, GOODALL, HASTINGS, HILL, HOBBINS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

#### ENACTORS

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

#### Emergency Measure

An Act To Allow the Town of Fort Kent To Create a Downtown Tax Increment Financing District Using the Current Assessed Value of the Downtown

H.P. 1414 L.D. 1910  
(C "A" H-929)

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.

Ordered sent down forthwith.

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All matters thus acted upon were ordered sent down forthwith for 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:

#### REPORTS OF COMMITTEES

##### Senate

##### Divided Report

Nine members of the Committee on **TRANSPORTATION** on Bill "An Act To Encourage Responsible Teen Driving"  
S.P. 684 L.D. 1912

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-551)**.

Signed:

Senators:

COLLINS of York  
DIAMOND of Cumberland

Representatives:

CEBRA of Naples  
GILLWAY of Searsport  
MAZUREK of Rockland  
PARRY of Arundel  
PEOPLES of Westbrook  
RIOUX of Winterport  
ROSEN of Bucksport

Three members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-552)**.

Signed:

Representatives:

HOGAN of Old Orchard Beach  
THERIAULT of Madawaska  
WILLETTE of Mapleton

One member of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**.

Signed:

Senator:

THOMAS of Somerset

Reports **READ**.

Senator **COLLINS** of York moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-551)**.

Senator **DILL** of Cumberland requested a Roll Call.

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Senate at Ease.

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Senate called to order by the President.

Senator **DILL** of Cumberland requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **COLLINS** of York, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-551) ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-551) **READ**.

On motion by Senator **COLLINS** of York, Senate Amendment "A" (S-557) to Committee Amendment "A" (S-551) **READ**.

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

Senator **COLLINS**: Thank you Mr. President. Ladies and gentlemen of the Senate, you probably witnessed a number of us here in the Senate Chamber running back and forth earlier today to Senator Courtney's office, where we usually gather as a meeting place. There was a lot of concern about the original content of the bill, L.D. 1912. We came up with compromise language that was finally agreed upon earlier this evening. There was a lot of deliberation with members of this Body as well as the Secretary of State and his team. We came up with an amendment that I think was agreeable to everyone concerned. I just want to mention briefly that this came to us late. We put an Emergency Preamble on it to eventually get this into law as soon as possible. Unfortunately, as time has progressed this year, it seems as though at least once a month you pick up the

newspaper and you read about the death of a young person that is regrettable. The Secretary of State felt as though we had to do something. We had hearings across the state earlier this year. Finally we came up with this language. The language originally wasn't agreeable to a lot of us here in this Body. That's why we worked diligently this afternoon. I'd like to thank the good Senator Diamond for his input, Senator Thomas, the Secretary of State's staff, and House members. It more or less was a meeting of committee chairs of the Transportation Committee and committee leads and the Secretary of State's Office. I would hope that you would vote for it. It is a good product now that seems to be agreeable with most people in the Chamber. Thank you, Mr. President.

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

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

Senator **DILL**: Thank you Mr. President. Men and women of the Senate, for the record, I have two teenagers; a 15 year old and a 17 year old. The 17 year old, Harrison, has his license. My daughter, Isobel, is about to take driver's ed. I, like everyone in this Chamber, care very deeply about the safety of teen drivers and am motivated by the love of my own children to have laws that will do the most to protect them. I have concerns about this bill. I have some process concerns and I have some substantive concerns. The process concerns are that a report was presented to the Transportation Committee on March 26<sup>th</sup>. The bill was printed on April 6<sup>th</sup>. There was a hearing and a work session on the same day, the 10<sup>th</sup>. Here we are, with a bill that purports to make driving safer for teens. Here's my concern. Every child is mandated by law to take driver's education. That's a State regulation that puts, in my view, a significant financial burden on families. It's a \$500 course. It's a \$500 course that you have to transport your child to the class. Maybe it's less in other communities, but in Cape Elizabeth, you sign up at the Community Center for driver's ed, it's \$495. Maybe I'm exaggerating the \$500. The class, itself, is regulated by rules that this Legislature promulgated. The rules are very detailed. They talk about a textbook that has to be used, the curriculum, and the date of the textbook. It's very specific about everything that has to be taught. You are going to learn how to back up. You're going to learn how to read signs. You're going to learn how to know yourself. There is actually a section on knowing yourself. There is not a single thing in the driver's ed curriculum that deals with distracted driving. This legislation attempts to create a bigger stick for our teens. The punishment is increased significantly for something that we, as a State, do not educate them in a mandated class that costs \$500. Last session there was an attempt to make it easier for rural students to access mandatory driver's ed by allowing the driver's education program to be transmitted via the internet. That was something that some people in this Chamber supported and others didn't. That would have made a significantly easier for students who live far away from the driver's ed program to access this mandatory, and very expensive, education that doesn't talk about distracted driving. That bill was killed. I believe that if we want to, in fact, get at the problem of distracted driving we need to do more than just increase fines and extend the length of sanctions and make it, in

fact, more difficult for teenagers to get to and from work and do all the things we want to encourage them to do. While it's pretty difficult to vote against an act to encourage responsible teen driving, I suggest that, as a Legislature, we could do better. The last point that I will make is that I went down to the Transportation Committee because I was curious about the hearing. I often talk, like many of you, about what goes on at the State House. My children, who are 15 and 17, just think it's unfair that the law is going to be changed. The students, the 16, 17, and 18 year olds, by Maine law, don't even have a right to a hearing. We're making them take this class that doesn't teach them what they need to know and it costs them \$500. If they make a mistake about something that they weren't taught about, they get punished, now punished more severely. They don't have a right to a hearing. While this may seem like a good idea, in my view we should really be approaching this more holistically. I believe in offering a bigger carrot as opposed to a bigger stick. I think the curriculum is way outdated. The testimony at the hearing by the Maine Medical Association, which was incorporating recommendations from a pediatric organization that you have to respect, like the pediatric doctors of the world organization, gave a nice comprehensive list of things that states should do to make things more safe for young people. In my view, those are the kinds of recommendations we should be incorporating, not just a quick increase of fines, making a bigger stick, and extending sentences. I just thought I would put that on the record as an advocate for my kids and for all the kids in your communities who aren't represented here with lobbyists and the like, who are going to be denied due process, who are now going to be punished more severely, who are still not going to get the education that they need when it comes to distracted driving, and will still, in my view, face the risks that, unfortunately, they face today. Thank you very much for your time.

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

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, the driver's education regulations are being looked at and they are going to be changed. There are some things the Senator from Cumberland says that are true. I was the lone vote again against this bill. I'm going to support it now because we've changed it. I voted against this not because I don't believe we need stiffer sanctions against teenagers, young people, who commit serious offenses. It doesn't seem like, to me, that we should have to teach our children much more and maybe parents ought to be doing it. They should know better than drink and drive. If they don't, then they shouldn't have a license. We need to crack down on that because there are teenagers that are being killed. Driving 30 miles an hour over the speed limit and the other serious offenses, I would think that would be a parent's obligation. If I didn't teach my children better than that I'd be ashamed of myself. What I objected to in this bill was that we had cast our net so broad that we were going to take young people's licenses away that shouldn't be taken away. One of the reasons that we would take a young person's drivers license away for 60 days was if they were pulling a trailer that had no lights on it. If they were pulling their Dad's boat trailer home and the lights went out, they could lose their license for 60 days on a first offense. This was up until 21 years old if you hadn't had your license for two years. When I was 20 years old I was married, I had a son, and I had a mortgage. If I had lost my license for 60 days it would

have been tough. Sixty days for five miles an hour over the speed limit or pulling a trailer without lights on it? There was a list of offenses. It was ridiculous. Currently, young people are going to lose their license for 30 days for these minor offenses. I'm not crazy about that, but 60 days was beyond the pale for me. I couldn't vote for the bill even though I believed that stiffer sanctions for those offenses that are killing children, drunk driving or texting while driving. Those kinds of serious offenses we need to crack down on. Other states have cracked down and they've seen a significant drop in the number of teenagers that are being killed. I believe that we've heard that it's up to 19 now in the last year, young people who have been killed. That's too many. We have fixed the bill so that the penalties aren't as severe. Those who are over 18 will be able to get a hearing. Before they wouldn't be able to get a hearing so that they can get a work license at least. We've made the bill a little better. Do we need to take a look at this again next session? You bet, but there is not time this session. I can't argue, we did hurry this a little bit, but something needed to be done for these children that are being killed. It's worked in other states and we need to do what we can as long as it's reasonable. This bill is reasonable. Let's take a look at it again next session. Thank you.

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

Senator **DIAMOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, you've heard pretty much what the bill does and what the amendment does. We did add a piece in the amendment about community service. It gives the court an option to apply that as well. We reduced some of the fees. We understand that some of these fees could be very difficult for families and parents. We have an epidemic of kids dying on the roads. Eighteen since Christmas. We can sit here and wring our hands and say this that or whatever, but we need to act. I think we have enough evidence now that suggests not only should we act but how we can act. It's fair. It faces the problem directly. It does so with a great deal of thought. Again, we're talking about kids, young people, intermediate drivers and provisional, who are just dying at an unbelievable and unacceptable rate. We had parents come to the committee and talk about how badly this bill was needed; parents who had lost their own children. We do have to act tonight. We do have to make sure that we get this bill passed with this very fair amendment. Before we leave here, we have to have this bill in effect. That's why we added the Emergency Preamble to it. I think it's done well. It addresses an epidemic of kids being killed on the highway. It's something I think we should pass as soon as we can. Thank you, Mr. President.

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

Senator **COURTNEY**: Thank you Mr. President. Men and women of the Senate, I want to rise to commend the committee; Senator Collins, Senator Thomas, and Senator Diamond. You really did take a holistic approach to this. Inside the amendment you also required that we do some further work over the Summer and convene to address additional concerns. It was a very responsible approach. Sometimes having a little scrap in the hallway is good in this building because it got people in the room to come up with a better solution that anybody had proposed. It

has an Emergency Preamble. Let me tell you, I was reading this thing from the Boston Herald. It was the Boston Globe. It talked about how Massachusetts changed their driving laws and in three years their fatalities dropped 75%. We're coming up on prom season. You go into a high school at the beginning of the year and it seems like every high school, by the time the year's over, somebody is not going to graduate. I've seen the look in the eyes of those parents. That's why this is an emergency. I really want to thank the committee because when we get this bill out we're going to save somebody's life. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I felt compelled to rise because I, too, as you all know and are very aware, have had significant difficulty with very late bills that may seem to all of us as important issues. I think that this is an important issue. When you have bill referred, a public hearing, and work session in a very short period of time, I'm sorry, you don't work out bugs. In fact, tonight is a good example of that. We sat down in our Senate caucus and within about ten minutes realized that there were some significant problems with this piece of legislation and that it would hurt, most of all, the people who couldn't afford to pay. It wouldn't have been a problem for people whose families could afford to pay these higher fines. It took us, as a caucus, maybe ten minutes to discuss this and to figure out that something was really problematic. I'm delighted that this has changed. This is a campaign year. To say that this has not been problematic in the past is just not genuine. It has been a problem in the past. It's going to continue to be a problem and I'm not at all convinced, one way or the other, whether or not the series of suggestions that have been made in this bill are actually going to achieve the results that we want. The knee jerk reaction is that we've got to act because there are people who are dying. I understand that. It's awfully difficult to rise in opposition to a bill which the title of it is "An Act to Encourage Responsible Teen Driving." When you think, for fear of not doing something, that somebody could lose their life. I understand that. This is a very charged issue. There is no question about that. We do have a problem and, in that regard, it is needed. Action is needed. We should be taking thoughtful action. The Secretary of State may have gone around and listened to people, but I haven't had an opportunity to even discuss this with people in my Senate District. Though I do not have children of my own, I represent many children and many families. They have no idea what is about to descend on them, as far as significant changes. They have not had an opportunity to weigh in on this. This will impact their lives because there is one piece, provision, in this bill that says an intermediate license gets raised by 90 additional hours. The fees are significantly higher. Do I want to save lives? Of course I do. Do I have the courage to say this is the wrong process? I certainly do. This is wrong. It's unfair because the people in my Senate District, and I don't think anybody in any of our Senate Districts except for the families that knew about this and have lost children, have had the opportunity to show up for the public hearing process and the work session. This has been very disturbing this particular session. Over and over we are faced with these monumental policy issues at the tail end of the session. It's not that I am necessarily against this change. I don't know if I'm in favor or in opposition to it because I have not heard the vetting of it. Yet, in

ten minutes this evening we were able to come up with better solutions than what had come out of the committee, which was a three way report. This is not the way to do public policy. I realize we want to act quickly. This notion of prom season is disturbing to me because it inflames an issue to feel like we should force ourselves to vote in favor of this and act quickly, as if that is a good thing. I don't think that it necessarily is so. I like to do things in a thoughtful and deliberative manner, where I have evidence that this is the best way. Perhaps the best way to solve this is to increase the driving age, but we don't want to talk about that. There could be dozens of better solutions, but we haven't really deliberatively discussed that. The Legislature I'm talking about. That's what our responsibility is. We represent districts of people who depend on us to have a good democratic process. This is not it. I'm not going to support it. I'm going to have the courage to say I'm not going to support it for the very same reasons I didn't support another piece of legislation. I told other people that another piece of legislation I'm not going to support because with all of these we have the ability to wait and do a better job and have a more thoughtful approach when we're not doing it on the fly in the last second of the session. I know that's difficult and I know that it's not often popular to go against something. Who wants, in a campaign year, to vote against an act to encourage responsible teen driving? You know what? I came here to do then honest job that I believe that I should. Whether or not it's hard, whether or not I'm running or not running, I don't think that matters. What matters is that we do a deliberative and thoughtful process. To me, I tried to do that whenever I can under the Dome. That's the way I want to leave this Body, that way. To me, I hope that this, if it doesn't pass, will come forward next session and that there will be a better airing of this and more time and more thought. Thank you very much, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I'm a Mom as well and I have three children; 25, 22, and 16. When my children went through their driver's license hours, I made my daughter do hers three times. There was no way she was going out on the road alone until she was a responsible driver. Every time I took a child to driver's ed I sat in on the first meeting. When I left, both my child and I understood, and my child especially understood, that there were only two people who could take away their license; the Secretary of State and me. I would be quicker than the Secretary of State. You know what? It was effective. I can't tell you how many times I drive through my town, down the Interstate, and in other people's towns when I look over and I see distracted drivers. I wonder where are the officers that are supposed to be enforcing the laws that we already have on the books, the ones that would make a difference without this law. You know what? I had a revealing conversation with an officer last night. He said, "Debbie, we are so busy we don't even have time to pull over vehicles. I can't remember the last time a guy in my group pulled over a car. We're tracking down burglaries. We're tracking down suspects. We're running back and forth to court testifying. Pulling over and stopping a car has now become something that we just don't have time to do." This kind of shocked me because we always think there is somebody out there ready to pull you over. I think I always think that if I pulled something there would be somebody

right behind me. No doubt about it. As I watched the kids pull out of the high school, they are texting. They are tearing out. They are speeding within a mile of the place. You know who should be stopping them? The police, but they are not. What are you going to do? You do have a problem. The kids know there is no enforcement. They already know it.

I have a problem with taking basically good kids who make a mistake and treat them, not as someone who needs to be educated or reprimanded, like a criminal. Between the underlying offense and the fine that goes with it, you add 30 or 60 days, or even a full year. I can't tell you how many college students I've worked with over the years, or tried to work with, who had a suspension. Due to computer problems and letters not being issued, all the time that they thought that were under suspension, and acted like it, they weren't. When it was time to go to work in the Summer, they suddenly realized that they were under suspension and there was nothing to help them. There was no way around the process. There was no discretion. These kids are trying to work to put away money for school, money for college. I'm wondering how these kids are even going to get to the 60 hours of service that they are supposed to do. If you live in Ripley I'm pretty sure there is a hardship coming on your family to get you to the public service that you are supposed to do for 60 hours. That just really makes me want to smile because I remember that there were people who didn't want me to let children work 20 hours a week. I don't understand. I agree with the Senator from Cumberland, we don't teach it, but we expect them to comply. We don't enforce it and we don't back up what we have now. What we want to do is make it tougher because we're going to send them a message. Well the message is that they are all bad guys and they need to be punished very harshly for that first transgression. The first transgression could be leaving your license at home. Your second transgression could be driving five miles over the speed limit. Your third transgression could be bringing that trailer home and the lights go out. In a two year period, you might now be able to drive for 17 months, depending on how the timing of this goes along. To me, that's harsh. If you are talking about the real big things that you wanted to talk about, drinking and driving or criminal speeding, those kinds of issues, where they are actually breaking and committing a criminal offense, then you have my attention. To treat our young women and men like they are criminals because of a civil infraction and to impose criminal sanctions, or the equivalent of criminal sanctions, is something that I really have a hard time fathoming. When I vote against this am I encouraging teens to drive irresponsibly? I don't think so. I did my part. I sent you three responsible drivers. Every parent who cares about their child has a duty to send us a responsible driver. Not every child dies at their own hands. Some of the children that died died by making a judgment call that they could not have foreseen would be the end of their lives. The drivers there are going to pay very heavily. I just don't know why everybody should be lumped into the same group by virtue of misjudgments. They are the misjudgment of youths and inexperience. Education is the best way at getting at that problem. I don't find this to be what I would hope it to have been. Thank you.

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

Senator **DILL**: Thank you Mr. President. Just very briefly. I just wanted to touch on a few things. First and foremost, I

wholeheartedly agree that it's the parent's responsibility to teach their children and lead by example. I want to talk about the Massachusetts law that was claimed to have reduced the driving fatalities in that state by 75%. It does not contain many of the provisions that we're passing tonight. In particular, I just want to alert you to the reality of what this is. For example, extending the intermediate license from 180 days to 270 days. What that means is, like for instance my son when he had his intermediate license, that if he and three of his of his buddies wanted to go out to a hockey game would take four separate cars. That lasted for six months. Now, for 270 days, you're going to have kids in individual cars. I'm not sure that this is a good idea. It's not what Massachusetts did. Let's not kid ourselves and think that we're doing what Massachusetts did and are going to have the same results. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Collins to Adopt Senate Amendment "A" (S-557) to Committee Amendment "A" (S-551). 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 (#474)

**YEAS:** Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBINS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, the motion by Senator **COLLINS** of York to **ADOPT** Senate Amendment "A" (S-557) to Committee Amendment "A" (S-551), **PREVAILED**.

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Senate at Ease.

Senate called to order by the President.

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Committee Amendment "A" (S-551) as Amended by Senate Amendment "A" (S-557) thereto, **ADOPTED**.

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

On motion by Senator **DILL** of Cumberland, Senate Amendment "A" (S-559) **READ**.

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

Senator **DILL:** Thank you Mr. President. It is because I care so deeply about the safety of our teens and the need to enhance protections for young drivers that I present this amendment. As I said earlier, it is, in fact, the case that the State of Maine mandates, by rule and here it is if anybody wants it, I didn't copy it but take my word for it, a very prescriptive rule about the curriculum for driver's ed. Nowhere in it is contained anything about teaching young drivers, new drivers, anything about distracted driving. We've heard that this may be changing. In fact, it just this afternoon, what a coincidence, we heard that the curriculum is being changed. What this amendment does is it directs the Secretary of State to bring a task force together with specific stakeholders that I think have been thus far unrepresented; including some parents of young drivers, some young drivers themselves, a representative from the American Academy of Pediatrics, that's what I was trying to think of before, as well as other professional stakeholders that have expertise in this area to not only change this very outdated curriculum that we insist students take, that costs \$500, but also try to adapt our driver's education curriculum to the modern day society, especially so students in rural areas can access driver's education in some way besides having their parents drive them for miles and miles and miles to the closest driver's ed location. Yes, perhaps the Secretary of State could do this. There is no fiscal note because the amendment directs the Secretary of State to convene a task force and to do it within the existing resources. I think it's incredibly important that we not only enhance the punishment but that we, as a Legislature, make it the law that our required educational curriculum include some of the very obvious things, like prohibiting driving while distracted as well as a number of other safety hazards. I encourage you to please support this amendment. I think it only enhances the good work that has been done thus far to protect our teens. Given the emergency that we understand to be the case and the high level of concern that we have for our young drivers, it just makes sense that we would not only just increase the penalties but also enhance and improve the education as well. Thank you very much, Mr. President.

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Off Record Remarks

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Senator **COURTNEY** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-559).

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

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

Senator **BARTLETT:** Thank you Mr. President. I request to pose a question through the Chair.

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

Senator **BARTLETT:** Thank you Mr. President. Could someone explain why we're indefinitely postponing this? Why is it a bad idea? Thank you, Mr. President.

**THE PRESIDENT:** The Senator from Cumberland, Senator Bartlett poses a question through the Chair to anyone who may wish to answer. The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Indefinitely Postpone Senate Amendment "A" (S-559). 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 (#475)**

**YEAS:** Senators: COLLINS, COURTNEY, DIAMOND, HASTINGS, HOBBINS, KATZ, Langley, MARTIN, MASON, MCCORMICK, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, FARNHAM, GERZOFSKY, GOODALL, HILL, JACKSON, JOHNSON, PATRICK, PLOWMAN, SCHNEIDER, WOODBURY

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **COURTNEY** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-559), **PREVAILLED**.

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

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed as Amended by Committee Amendment "A" (S-551) as Amended by Senate Amendment "A" (S-557). 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 (#476)**

**YEAS:** Senators: COLLINS, COURTNEY, DIAMOND, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBINS, KATZ, Langley, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS:      Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, JACKSON, JOHNSON, ROSEN, SCHNEIDER, WOODBURY

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-551) AS AMENDED BY SENATE AMENDMENT "A" (S-557)** thereto.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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The President requested the Sergeant-At-Arms escort the Senator from York, Senator **COURTNEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

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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. 1416

ORDERED, the Senate concurring, that the Joint Standing Committee on Veterans and Legal Affairs shall report out, to the House, a bill that allows the operation of a slot machine facility by the Passamaquoddy Tribe. The bill must contain the following provisions:

1. The slot machines must be operated by the tribe at a high-stakes beano location located in Calais;
2. The number of slot machines at the facility may not exceed 100;
3. The tribe may not be restricted in its operation of the slot machines regarding hours or days of operation;
4. The slot machine income must be distributed in the same manner as required for a casino operator licensed to operate slot machines under the Maine Revised Statutes, Title 8, section 1011, subsection 2; and
5. The bill must take effect only upon the approval at a referendum of the voters of Washington County only.

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

##### READ.

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

Senator **RAYE**: Thank you Mr. President. I rise briefly to speak to the motion before us. It will surprise no one who has served in this Body with me over the past eight years what my position is on the issue before us. With the possible exception of the Senator from Lincoln, Senator Johnson, each of you have heard my previous speeches on this issue because this has been a perennial debate for longer than any of us have served in this Body. For 20 years this Body and the other Body has debated the issue before us. I am fully aware that there are those who are concerned that the Joint Order emanating from the other Body comes late in the session. There will be no argument about that. It certainly does. It has, however, been perhaps the most thoroughly vetted, thoroughly discussed, and thoroughly heard issue that any of us have ever dealt with. The issue of gaming by the Passamaquoddy Tribe in Calais is the subject of countless hearings and work sessions. Each and every time that this issue has come before this Legislature there has been a reason why members have felt that the Passamaquoddy Tribe and the people of Washington County should wait, that this is not the right time for whatever reason. Perhaps it's late in the session. Perhaps there is another measure that is deemed more worthy. Each and every time for 20 years that this issue has come before the Maine Legislature the answer that Passamaquoddy people and the people of Washington County have heard has been the same. Wait, this is not the right time. There is a reason. That was the case 20 years ago when it was first heard. That was the case when Hollywood Slots was approved. That was the case when the Oxford Casino was approved. That, for some people, may be the case now as we're approving gaming for our veterans organizations and fraternal organizations across the state; raising, I think, in the minds of the sponsor of this Joint Resolution and others that perhaps now is the time that there could be a measure of fairness and equity for the Passamaquoddy people who first introduced the notion of gaming in Maine. Mind you, when they brought it to the Legislature for the first time and one of my predecessors stood on this floor, as has every predecessor who has held my seat in the past 20 years, to advocate for the Passamaquoddy's and their opportunity to participate in gaming and my county's opportunity to participate, there has always been a reason. I'm certain that in the minds of many members tonight there remains a reason. I would ask you to think for a moment how my constituents feel, how the Passamaquoddy people feel, and how the tribal leaders who are here in this Chamber tonight to witness this vote feel at the prospect of being told again, year 20, that there is a reason, that it isn't the right time, that it hasn't been vetted, or hasn't been heard when it's probably been vetted and heard more than essentially any other issue that we've considered during my time here. I just would ask members to think for a moment how those folks sitting behind me and in the balcony and waiting at home would feel this evening. Thank you.

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

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Mr. President. As the Senate co-chair of the committee, the Veterans and Legal Affairs Committee, that would be tasked with reporting out this bill, I'd like to just set the topic aside for a moment. I just want to, I guess, recognize and appreciate the strategy of bringing this item forward at this time. It is a strategy of using a Joint Order and this Joint Order, as specific as it is, would give the committee the guidance needed to craft this bill. However, the timing will present a challenge. If this order is supported I am confident, though, that there is the expertise in the committee members on the Veterans and Legal Affairs Committee to put something together. The guidance is right there in the order. I have full confidence in our committee analyst, as well as the Revisors Office, to get that part of it done as well. They are poised and standing at ready, as you all know. The part I struggle with though is the public notice piece, for a public hearing and a work session. As has been brought to our attention, is that needed in this case? I guess I'll look, as a committee chair, to you all for guidance to know whether that part of the process can be shortened and abbreviated in this case. If that is the case, I have full confidence in the members of the committee to go forward and get a bill before you as quickly as possible and as much as is allowed in the process that we have tomorrow morning and whatever time we have before us. My preference would be to honor the citizens with a full process, a proper notice, and a full public hearing and work session process like we're afforded most of our bills up to this point. However, I'll look to you for guidance as to whether a shortened and abbreviated version of that can work in this case.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, it was basically a little over a year ago that I stood here and pleaded for help in my community. It was two and a half years ago that I chaired the very committee that would be chairing this. For 25 years, actually 28 years, I've taught at least one course of American History from colonization up through, and including, the Civil War. It was the Native Americans that helped us win our Revolutionary War. Orono is named after Chief Orono. We have continually, in the time that I've taught, had to explain that the Native Americans were so helpful to us and were willing to give their lives to fight for us, not that there hasn't been bad blood. We, in the state of Maine, have the Revolutionary War connected to our Native Americans and their help to us. I am embarrassed that every time that this has come up since I have been here we have refused it. Is it true, as the Senator from Washington, President Raye, has said, we have found a reason every time why it is not quite right. Each time we've found a reason why it was not right for our Native Americans, we found another reason why it was right for someone else. Every single time we have found a reason. Certainly my home town now, Biddeford, does not share the pain that the Native Americans have shared. We haven't had it that long to bubble up inside us. My husband has been unemployed for two years. No, he's not lazy. No, he's not collecting unemployment. It seems it didn't quite work right. Yet, we have watched our Native Americans,

nationwide, suffer with the very effects that we, as Caucasians, have given them; whiskey, poor areas for their reservations, and poor farming areas. Today, tonight, we have a chance to make a statement. The statement is that Native Americans are citizens of this state and this country. They are also a sovereign nation. Those things have been settled. They have given their lives and blood and their tax money to this state. I'd love to be able to take a vote over again. I learned a lot about what happened a couple of Novembers ago, or one November ago and almost two. I can't take that vote over again, but I have a chance tonight to vote for the Native Americans to have the same right as our non-profits, to have the same right as Oxford, and to have the same right as Bangor. By the way, Bangor was allowed to come in as a racino and, because the law was just automatically changed, they get to be a casino. They only had to vote in their county. I would ask you all to think about how you tell your children, your grandchildren, or the children in school that the very people who helped America in their Revolutionary War have come here year after year to this Chamber and the Chamber at the other end of the hall and we have said no. No, no, no. We are a gaming state. We have been. We have a lottery, which I might add brings in more money than the casinos. We now have a racino that has graduated into a casino. We have a casino. The Native Americans wait. I don't believe they should have to wait any longer. I think it's time right a wrong. It's time to right a wrong and forget the almighty dollar and allow the Passamaquoddy's, to allow the Native Americans to have their racino. It is right. It is fair. It is legal. It is morally right. Their lives and their quality of life is just as important as anyone else's here. They have a right to engage in economic development for their nation. I pray that we will see this is a chance for us to do the morally right thing and to right a wrong. Somehow we feel we deserve that right and any way that we can we try to not give it to Native Americans. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, all these comparisons of what was and what is today is a little bit unsettling given the last time that there was a Washington County involvement in gaming I supported that. That was a bill, once again, that had been discussed and had gone through the normal process. Once again we're here on what is really the last day, or perhaps the second to last day, I'm not even sure yet. I know we're coming to a halt, at least for the large part of our work either late tonight or tomorrow at some point. I'm pretty certain of that. We may only come back for perhaps a couple of days in May to deal with the budget. Here we are again with another bill. It is a policy issue. What concerns me is that there is this implication that somehow we're doing something because we are in opposition to Native Americans. It is outrageous. It's incorrect. For me, and I represent the Penobscot Tribe, this is the Passamaquoddy's. If Passamaquoddy gets it then why shouldn't the Penobscot. There are a lot of issues here that have to do with it. I think the urgency for this piece of legislation is tied to another piece of legislation because there is going to be this moratorium. We haven't even heard that on this floor yet. There is this rush. There was a bill in, I've been told, and then that bill sat around for a while. It wasn't heard. For whatever reason, the bill sponsor chose to pull it back. Now we're here, in the 11<sup>th</sup> hour, discussing a bill. If it

had been really discussed and if there had been public input, but this is a different bill. Just because something similar came before doesn't mean that we should rush on something like this. I take exception to that, being a legislator and believing that we should have a thorough process. I don't think that this is the same bill that we heard last year. This is a different bill. I'm thinking about the Passamaquoddy Tribe. What about the Penobscot? How does this fit in? I have all these questions. They can't be solved in the 11<sup>th</sup> hour of the Legislature. What might be an option is an amendment that says the tribes will not be swept up into this moratorium and that this would make it possible to bring back a bill next January. To me, that's something I could support. The other thing that disturbs me, and I'm going to bring it up, is when people talk to me about how I okayed a piece of legislation in the 11<sup>th</sup> hour. It was a piece of legislation in the past that had been vetted for two years and an amendment came forward that changed that bill. We do have that happen frequently. Do I like it? Not really. I'd much rather send it back to a committee so that it could be heard in its entirety and that the community could do that. Unfortunately, that is the norm. I prefer it differently. I would prefer to take more time than less time. That's the way I prefer it. In my own committee, when I chaired a committee, I did that sort of thing. We advocated to the Senate President and the two Presiding Officers and the Speaker to have second public hearings, which isn't done all that often on bill. I did it on a contractor bill because I felt it was so big. I think that is the standard we should be living up to. I think it's that important, to give the public their opportunity to weigh in. I am consistent here. When people bring up to me, Mr. President Pro Tem, issues of bills that have been heard, I do my best to be consistent. In this session in particular, these policy issues are being raised and I just have talked against a couple of my own colleagues on their bills because of the lateness and the magnitude of the policy. I don't see this as much different. I've spoken to the Passamaquoddy about this. To suggest that this is somehow a racist action or that I don't support it, which I may very well, this may be something that if it was vetted in committee I may have supported it, I will not tolerate that as a legislator. I don't think it's fair. I don't plan on supporting this because of the lateness, but I do think that there may be alternatives to solve this problem that may be fair on other legislation. I hope that that is a consideration from the people who serve on that committee, Veterans and Legal Affairs Committee. Thank you very much, Mr. President.

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Off Record Remarks

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I've sat on the committee for eight years and I can give you a full history of how gaming has developed. It has developed by referendum, except for a very few instances. Gaming has either been accorded to or denied by the people of the state of Maine except for when we gave the Penobscots and the Passamaquoddy the ability to have machines that look and act like slot machines, which we did last session, and except for

when we gave veterans and fraternal organizations the right to hold Texas Hold'em several sessions ago. Other than that, the voters of the state of Maine have been the ones to decide whether there will be gaming or not. If I am missing one, please let me know. In the meantime, this is the first year in a very long time that we have been able to approach gaming in any comprehensive way in the Veterans and Legal Affairs Committee because it is the first time we don't have a People's Initiative before us. We have tried to come up with something comprehensive. That's a little bit about the history. I'm going to go back to the Joint Order. I've never seen a Joint Order like this. I have never seen a Joint Order that tells the committee what the bill will look like. When I asked for advice regarding how our rules work, I was advised that if we accept this bill, this Joint Order, we must comply with what the Body has ordered. The piece of legislation must include all five provisions as dictated to us by a Joint Order and what we must comply with to respond back to you for consideration. I object to that. If there had been an order saying to create a gaming facility and set the parameters and bring back a bill, that would give the committee all the license and all the privileges to respond responsibly to developing gaming policy. This Joint Order ties our hands. This Joint Order, for all intensive purposes, is your bill. If we meant for legislation to be passed by Joint Order then we would do away with the process for putting in bills. We all would just live and die by Joint Orders. I have a problem with how this came to us. Accepting this Joint Order means you know what the bill is. I have no choice but to sit in that committee and we have no choice but to bring you a unanimous Ought to Pass report with this in it. I object to that process. The word process has been used for about a week. I've got to tell you, this is an abuse of the process that we should be allowed and this Joint Order should not have come to us in this form. Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you Mr. President. Just a couple of things. I appreciate Senator Schneider's possibility of another way of dealing with this. In law there is something called equity. Sometimes the law is the law, fairness is fairness. Many years ago I had a friend by the name of Paul Meader. There were Paul, Joe, and Steve. They were State kids. Lived in Hodgdon. We went fishing together. We went to grade school and played ball together. High school with Paul. We played basketball together. I got a car and we used to travel here and there together. Folks sitting along the back row might know the Meader folks. Paul was one of my best friends in high school. He went off to the Navy and had problems in the Navy. Eventually died in a fire in California. They were Penobscot Indians. They used that term. I never, as a kid growing up, knew what they were. It just didn't cross my mind. We fished and played ball. We actually crossed the border in Woodstock many times because there was a dance place over there. It bothers me. This is just another group that has been here a long time. We don't have to go back to the Revolutionary war. I think if we can work out somehow, equitably, we should try to do this. It would be in the honor of a guy named Paul Meader if you do.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Passage, in concurrence. 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 (#477)

YEAS: Senators: BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, JACKSON, JOHNSON, MARTIN, PATRICK, RAYE, SAVIELLO, SHERMAN, SULLIVAN, WOODBURY

NAYS: Senators: ALFOND, FARNHAM, GERZOF SKY, GOODALL, HASTINGS, HILL, HOBBINS, KATZ, Langley, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SCHNEIDER, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, **FAILED PASSAGE**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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### COMMUNICATIONS

The Following Communication: S.C. 837

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

April 12, 2012

Honorable Kevin L. Raye, President of the Senate  
Honorable Robert W. Nutting, Speaker of the House  
125th Legislature  
State House  
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 513      RESOLUTION, Proposing an Amendment to the Constitution of Maine To More Equitably Fund the Liabilities of the Maine Public Employees Retirement System

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Richard W. Rosen  
Senate Chair

S/Rep. Patrick S. A. Flood  
House Chair

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

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The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from York, Senator **COURTNEY** to his seat on the floor.

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:

### REPORTS OF COMMITTEES

#### House

##### Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Improve Environmental Oversight and Streamline Permitting for Mining in Maine"

H.P. 1371 L.D. 1853

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-940)**.

Signed:

Senators:

SAVIELLO of Franklin  
SHERMAN of Aroostook

Representatives:

HAMPER of Oxford  
AYOTTE of Caswell  
DUCHESNE of Hudson  
KNAPP of Gorham  
LONG of Sherman  
NASS of Acton  
PARKER of Veazie

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

Signed:

Senator:

GOODALL of Sagadahoc

Representatives:

HARLOW of Portland  
INNES of Yarmouth  
WELSH of Rockport

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-940)**.

Reports **READ**.

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

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

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

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'm in support of the pending motion for the possible jobs that it could create in Aroostook County. When this was brought to my attention, it's like I told the committee, this is a huge deal. It's a huge deal, not only in what it could give to Aroostook County but it's a huge deal for all the issues that actually come with it. While I agreed to support the measure and I spoke in favor of it in the committee, I think I probably did a fairly honest job of telling the committee that I had no experience in mining. I have no experience in water quality issues. Those water quality issues were as important to me as the actual project going through. I left it to the committee, who does have by far more experience than I'll ever have on this, to make sure that water quality was the number one issue. Quite frankly, I said, "If you can't get over that hurdle than I don't want the bill." Since then we've had a lot of people that said that this bill was rushed. I don't believe at all that this bill was rushed. I've been here for a while and I've seen how some bills actually are rushed. This one had its first public hearing almost a month ago. I've told the chairman and the other Senators on the committee that I don't believe that I've seen any committee other than Appropriations work one bill as much as they have this one, on a constant daily basis for that month. I really believe that. Most of my time here I've been on Labor, been on IF&W, and I've been on State and Local. I know that we've had very portentous, very serious bills. I don't think that any of those bills that I've had on any committee were ever worked as long and as much as the Natural Resources Committee did. That's a testament to the chairman and the other two Senators on the committee and all the House members. I think they did a very good job of making a bill a lot better. I honestly wasn't 100% sure, testifying in support of it, if it was something that we really should do. I think now, after the committee working on it for a month and putting in all the time and getting a lot of changes to it, it is a lot better product and I think

it's something that we actually should do. In this part we actually should pass this bill because it's about the mine regulations. Anything after this will be a permitting process and people will have a chance to make any arguments they have for a proposed mine in their area. The mine rules, as everyone has attested to, were so stringent that there wasn't going to be any possibility of anyone mining in this state. I think that the possibility of that, at least in my area, is huge because we just heard about different parts of the state and how tough it is economically. I don't disagree with that. I understand that. I know Aroostook County definitely has a hard time. I'm up here many times arguing about the logging industry. We've seen a lot of failing in that.

What this mining bill presents, it certainly can't say for 100%, is something else. Something that people could either supplement logging with, because from what I understand you can do mining 12 months a year, whereas with logging you can't. Like I talked about the other day with the unemployment bill, I'm out of work here for the next couple of months. It's also something that people who don't like to do logging could actually fall into, this mining. I think it could, hopefully, lift the entire area up. It's an area that certainly is economically depressed. The committee worked on this, making it a lot better and taking out a lot of questions that we had. When somebody does apply for a permit, there is going to be a long process. By everyone's best estimate, two years would be the minimum before any shovel broke ground on any mines. I think that people are going to have a chance to express all their concerns and hopefully they will get taken care of. Unless we pass this, change in mine regulations, I don't think any of those permits are ever going to happen.

I guess I can't say any more about how good a job I think the committee did. We have a product here that has taken away a lot of people's concerns. I think what's left now is just fears that we're never, at any time, going to be able to answer.

Hypothetical things that may or may not happen, but there is not going to be any legislation that we could ever write that could fix those things. I guess I'm comfortable with allowing the regulations to be changed so companies can actually go ahead with the permitting process. Then we can get down to probably even more work of finding out if mining should be done in particular areas in the state. What this bill does is just opens the door to start having those discussions. Again, like I said, I think that, probably for the fifth time, I really believe that the committee did an excellent job on this. A lot of the fears and concerns have been relieved. I know mine have. I'd ask you to support the Majority Report and thank all the committee members for their excellent work.

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

Senator **JOHNSON**: Thank you Mr. President. It's nice that what we're looking to achieve through this is a few hundred jobs. If that were the primary consideration, I would say great. We certainly need jobs in this state. It's not just the hypothetical situation of what the risks are for the people of the state of Maine at multiple levels. I think a very real question to ask is, where are there mines using open pit mining of sulfide ore in which there are not problems with the acidified drainage from the process, from water going through the tailings that result from that process, and all the poisons in addition to acids, such as arsenic and various metals, that remain that poison and destroy any life in the streams or other surface waters that they hit, that poison groundwater?

Certainly this bill has language that seeks to address those concerns. Let me give you an example. The mining operation will not cause a direct or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that result in a condition that is in non-attainable or noncompliant with the standards in Article 4A, section 414A or 420. That's great. How do you do that? Where is there a mine that is doing that successfully today that we can look at and say if they are able to do this we can too? I feel that there are very real risks, that we haven't the technology and the practices that can reasonably be applied to this process to ensure that this sort of damage to water, surface water and groundwater, will not occur. I think if you could point me to those mines and the processes they are using to solve that, I would feel differently about this.

I'd like to talk for a moment about the jobs and the other side of the equation, because adjacent to my district as some of those same sulfite ores. This is not a law that would only affect the one mine that is being proposed today. This is statewide. In my district, working their way down through and integral to the various occupations and lifestyles of everyone in my district, there are three rivers. The people of my district are very proud of their conservation work, not only preserving the value and the wildlife, fishing and the fisheries, shellfishing, elver harvesting, and fish ladders to bring back some of our species. They make their living around the qualities of these waters. We are talking about a mine in which we don't know the real risks. I asked what risks are there. How do we balance this? I didn't get an answer. It's been asked where other mines are that don't have this problem, that have dealt with accomplishing what this law says they should accomplish. We haven't heard where they are. We haven't heard what regulations have made that achievable. I hear from the people in my district, like the clammers. Those diggers produce 35% of the clams in the state of Maine, in the flats of the Medomak River. I don't want to endanger those jobs. These people are having a hard time making a living at what they are doing in the first place, but those are jobs for them. The people that run the camps on Damariscotta Lake and any number of other lakes in the district. The people that are making their living in aquaculture business all around the rivers and bays of my district. I think this is too risky a proposition. It started out like that drawing in college where the professor starts this real complex problem and suddenly he just draws a little squiggly around the board and magic happens and the answer pops up. That's what this is. This law is prescribing that we're going to achieve something, but we don't know how to achieve that. Magic isn't in the rules. It hasn't happened yet. In fact, with the rules, we don't know how to make them happen yet because we don't know where there are mines that are actually accomplishing what these laws say need to be accomplished. We know of lots of mines where people started out with the intent of accomplishing them. Where are the mines that show it can be done? On behalf of the people in my district, whose jobs and livelihoods and reasons for wanting to live there depend on maintaining the quality of the water and maintaining the wildlife that any accident of this sort within those watersheds would destroy, I have to vote against this bill. Thank you.

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

**Senator SHERMAN:** Thank you Mr. President. If there is someone more articulate than I, I hope they will get up here and talk about this process. I'd just like to make some points and then I'll sit down. Part of it, I hope, will make you angry. Part of it, I hope, you will think about what we just did to the Native Americans. I feel like a Native American when we're talking about this. I have in my hand, I won't say who put it here, that says a mining permit may not be issued unless the proposed mining operation has been approved by a referendum of the voters of the county or counties in which the proposed mine operation is located. That didn't come from Presque Isle. It didn't come from Ashland. It didn't come from Fort Kent. It came from about 60 miles south of here. I read the Sunday paper on a regular basis. I noticed there is a \$63 million bridge that's going from Portland to South Portland. There is an \$8 million off-ramp north of Portland that will have parking spaces for 300 cars. When I lived in Portland we had the Million Dollar Bridge. The Million Dollar Bridge turned into a drawbridge. It doesn't work too well. It goes to South Portland. It's got a nice cute little curve in it. It cost \$100 million. If you add those three things together it's about \$172 million that Aroostook County didn't get a chance to bid on or talk about. I'd ask you to reflect on that. This is a so-called mine. It isn't a mine yet. I think Senator Saviello will, hopefully, lead you through this process and may answer some of the questions, is disconcerting when we had seven sheets of paper with names on them with 48 individuals per sheet. If you multiply that out that's 336 in opposition. One or two may be from Aroostook County because of the camps down on Grand Lake and maybe across the border. Where did these folks come from? Some of them came from Tennessee and Ohio. They came to Maine and bought a place on the coast. They are adamantly opposed to any kind of mining. I lived out of state for a while and came back for a number of reasons. We're like New York State. Upstate New York was the rural area, kind of hates lower New York State because the city seems to control everything. Unfortunately, whether you see it or not, that's what a lot of these folks feel; maybe north of Waterville or maybe north of Bangor. I don't know. There were some opponents that had some, what I thought, were legitimate concerns. One of those was the water issue. They wanted to know how you actually design the mine and that sort of thing. This was a rush job. I'll let others who are more articulate talk about those things. I think they were covered. I don't want to fight with Southern Maine, but if I asked how many of you have been to Fort Kent or to Portage and those places that are truly rural Maine or could identify some of those areas, I'd be much surprised if you knew where they were. When I was in Portland I worked for a contractor who lived on Danforth Street, some of you know where that is. That was part of my Summer job. He had a brother who lived in New Jersey. The brother came up and was going to explore Maine. The brother who lived on Danforth Street in Portland said, "Well, where are you going?" He said, "I'm going to drive to Northern Maine today." He got as far as Freeport. This is a big state but it is treated like a small state. I'll give you another little story about this state. It's a huge state, from my point of view. When my kids were growing up is that we had a puzzle of all the states. It had the kids put the states back. Now you do it by computer. They could never find the place to put the state of Maine because if you put it over Tennessee and it stuck out on both sides. If you put it in Wisconsin it wouldn't fit in. All the rectangular states it wouldn't fit in. Finally they learned that if you went to that place called New Brunswick that they could slide that piece of puzzle in. I had four

children. All are sort of college graduates and making a living. Only one of those folks is in Aroostook County. One is now in Georgia. One is sort of in Maine. We're losing population in the rural areas and it seems to be with some great glee that we're doing that. Farming is under. I won't get into that. It's too late at night. We're almost into a new day here. The good Senator, I hope, will follow up with some real logical answers to some of your problems. Thank you, Mr. President.

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

Senator **SAVIELLO:** Thank you Mr. President. With that introduction I'm not too sure what I should do. Let me start first, for all of you and I've said this many times, my career has been built on making the environment a better place and not destroying it. I want to say that again. It was built on making the environment better. My track record at the Androscoggin Mill speaks for itself. When I have any legislation that comes in front of me, the first thing that I'm going to ask is if I'm going to leave it better than I found it. My second premise is, as I went into this bill, that I believe all of our environmental rules that are at least five years old need to be reviewed. We have a responsibility. The technology has changed. The information is new. You can't build it on old data. As a scientist I knew that. I used the examples, those that were here last year, of vernal pools, wading bird habitat, and sand dunes. All those ideas, rules, and legislation that were in front of our committee we looked at in detail. The second, and I haven't heard it but I anticipate I probably will, is that this was a short notice. We didn't have time. Let me make sure you all know that the committee, that I'm fortunate enough to chair, cleared our desks, not knowing this was coming but always anticipating. In my ten years here, there will always be the surprise that we get. We got it. We decided that we were going to spend the time really digging into the bill, which is traditionally what this committee has done in the last two years. Some of you know this, but I will tell you that we spent probably close to 14 days in committee and surely over 40 hours of unprecedented time reviewing the information; whether it was in a work session or the two public hearings, because we really wanted to understand what the issues were and how we could write good legislation. I would add that I need to thank the Department of Environmental Protection because they went into overtime to try to help us clarify the language and make the law right. That is going to be very important. In a minute I'm going to go back to the rules, which is really going to take up the two year process.

Let me just quickly outline some of the things that are going to happen. To get a permit to mine, one must demonstrate there is no undue risk to the environment. A Maine Supreme Court decision defined undue risk, saying whenever you do something in the environment there will be a change. Water quality standards. Any discharge to groundwater beyond the mining area must meet drinking water standards or be as clean as the water that is there today. I would tell you, if you look at the water quality data just on the area already, it exceeds drinking water standards for arsenic. The trout seem to do fine. Any successful applicant has to show that they can protect the surface waters in the area. They will have to adopt very vigorous groundwater and surface water monitoring programs. Let me give you some specifics that we spent a lot of time on because, as we found in the 1991 rules that are over 20 years old, there

were some issues. Back in 1991 they built it on what they knew. I'm going to pick four or five of the issues. First is the financial assurance packet. How are we going to know if there is enough money at the end to close the mine properly? In the old system it called for a trust. That was it. In this we opened it up so there are other opportunities. Most importantly, the Department of Environmental Protection determines that the applicant has adequate resources and the proper mechanism to fund the closure, the operations of the mine, and any reasonable unforeseen changes. Water quality. We passed the law that defines water quality that has to be met within the mining area close to the various mining operations. It's not just the pit. It's the tailing pond. It's the rock storage area. Every one of them has to be monitored as close as possible to that particular mining activity. That will be determined in the licensing process, using new technologies such as groundwater monitoring. I already talked about water quality. All the groundwater in the area must meet drinking water standards or at least the standard that presently exists. We've defined the point of compliance as being somewhere in that mining area activity. One of the issues that were really detrimental to anybody moving forward was that you had to get two permits. You had to get a permit from the DEP and you had to get a permit from LURC. By the way, you had to rezone in LURC if you were in the unorganized territories. We have a bill that we actually passed that will probably solve that problem a year or two from now. Right now we have finally focused it; there will be one permitting organization, the Department of Environmental Protection.

There were questions that I heard about the towns and everybody else not participating. Right now we did not tinker with home rule. We did not do that. We had a provision in the bill that said home rule couldn't be any more restrictive than the State regulations. We took that out. That may need further discussion, but we gave the towns immediate intervenor status and \$50,000 to evaluate the project. If they have their own ordinances, they can do even more than that. I have 20 years of living with environmental ordinances and know that many things can be accomplished under that. I do believe that is something that needs to be reviewed in future Legislatures and would anticipate that it may be taken up in the future.

Let me address some of the questions that I had. First was about risk. Life is a risk. I have a cartoon in my office. It's a picture of two cavemen starting a fire. The caption under it is, "Quick, put it out before somebody sees it's going to burn up something." We have risks, but you know what? We can address those risks properly with the technology that is available. There were a lot of comments about, "Oh, we don't know about mines that have been successful." The committee, if you had been there, presented that information. Good examples of recent mines that are in compliance with the State regulations in Michigan, Wisconsin, Nevada, and South Carolina. The committee was given that information because you cannot go from 1996 back. You've got to go forward because the technologies and the implementation of the activities were put into place then. Most importantly to me, this is just the foundation of the mining regulations. Just the foundation where we put the definitions into place. The rulemaking has to go forward. The rulemaking will be major substantive. For those that are new, that means it will have to be developed by the Department of Environmental Protection and go to the Board of Environmental Protection for first approval. Then it will come back to the Legislature for final approval. In both of those steps the public will

participate in a significant fashion. They will testify in front of the Board of Environmental Protection and they will testify in front of the committee when it is presented there. It's another shot, two more times, at the effort that we've put forth.

I strongly believe that we have taken what was perhaps not a well written situation and done a very, very good job. I think the work this committee did in such a deliberative fashion came up with a reasonable solution that will allow rulemaking to take place that will protect the environment, provide jobs, and leave us with a better place to live. Thank you very much, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. It's nice that we're talking about what you want to do up north and the south shouldn't have a say to overrule that. The reality is that this law effects mining everywhere in the state. There are those same kinds of sulfide ore deposits adjacent to my district. My waterways, our rivers, lakes, and ponds; we can't protect all of those through home rule. One of my rivers goes through seven or eight towns before getting out to the bay and two more it goes by after that. It's not a situation where town ordinances can effect or protect everything that would be downstream from that. There are so many industries and jobs in my district that depend on those waterways. It's great that you are willing to put your trust in those rules; reducing the risk to the level which you are satisfied that all the people's livelihoods in my district would be protected. I don't feel that the case has been made that this is actually practical. How much change has there been in the technology, not only of mining but of dealing with all of what's produced in the mining in terms of sulfuric acid in the water and the arsenic and other metals? I'd love to think that there is a way, but I don't understand that there has been the expert testimony to say here is how you can do it and it can be done. I think that we're a little bit jumping the gun to change the law. Yes, there is a two year rulemaking process. I'm so much happier that this is the process rather than saying we're going to figure this out and by the end of the year it's going to be done. I thank you very much for your caution in committee and putting that timing in place. Can it be done and where has been the expert testimony telling us not only that it can but how it can be done? Accidents do happen. What's the risk that we're assuming? For me, one mistake can mean more than the hundreds of jobs you are talking about lost. It's the livelihoods of people in my district if someone starts mining the sulfide deposits adjacent to my headwaters of the rivers in my district. I want to know that this is a good decision about risk. I do have reason to be concerned and care on behalf of the people in my district. This is not for me, trying to decide what happens up country and whether they should have the right to make that decision. It's right here in my district. Thank you.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wish the senior Senator from Aroostook was still in the Chamber because I was going to say that I have a story too. The good Senator obviously is from Aroostook County, but he's two hours away from me in Southern Maine. The issue of these mines, changing these mining rules, whenever we initially talked about this it was actually brought up if

we should make this for only unorganized territories and should we make this just for Aroostook County. I didn't feel that that was the right thing to do because I don't know where there might be another place in Maine that would be appropriate for a mine. I don't think that if the State is going to go through with something like this that I should just be the one to benefit from it or any one place in the state. If mining is to happen, it should have the opportunity to happen anywhere that the people want it to. I think it would have been disingenuous for me to say, "No, just let me have it and no one else that might be appropriate in the state to have it." I think that's part of the whole issue. The good Senator from Lincoln, Senator Johnson, brings up questions about his district, or his area. I don't disagree with him. I don't know. It may not be at all appropriate for there to be a mine there. That, I think, is going to get taken up whenever anyone applies for a permit. The people in that area will get a chance to speak about their displeasure or if they want it. That's how this should happen all around the state. Because you are against mining in your area, you shouldn't be against mining all over the state because it might very well appropriate in other parts of the state. The only way that's going to happen is with a change in these mining rules. You don't want it in your area, or it's not good for fisheries. Quite honestly, I'm not sure 100%. I know there are people in Aroostook County that doesn't want this. I think they are going to get their shot during the permit process, just like everyone else will get their shot. I just can't stand here and say, "I don't want it here so no one else can have it anywhere else." That's kind of what I think we're coming down to now. With the good work that the committee did, I feel comfortable in changing the rules to allow people to start asking for permits and then everyone can get their shot, to argue if these mines are appropriate in these places around the state. To just say that you don't want it in your backyard so, therefore, you can't have it in yours doesn't seem to be the way that anyone in the state should operate. I hope you will support the pending motion.

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

Senator **SAVIELLO:** Thank you Mr. President. I want to address a few issues. First of all, local ordinances, I happen to be the most experienced person dealing with local environmental ordinances. Any community can put that together any time they want to. They can regulate mining. Let me also point out, at the local level you have local zoning boards, you have local planning boards, and they can make the determination. If you think I'm wrong, call the town of Jay and ask them about their local environmental ordinance. Ask your seatmate and he'll explain that to you, because it can be very restrictive. As much as they would like. Second, the worry about the technology and the water being polluted. Let's not forget there is something called the Clean Water Act. The Clean Water Act prevents discharges into the water that will degrade the water quality. If we want to get into the technology, my group didn't go into the technology. Our job is to deal with statutes and laws. We made a performance standard. You must meet the water quality standards or you cannot discharge. That's federal law. That's State law. They cannot degrade the water quality. Again, as I have said, there are risks in everything. We probably wouldn't have a paper mill in this state if we worried about risks. We can do it right. It can be done. Rulemaking will determine that. The applicant would have

to meet those rules that are established. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Franklin, Senator Saviello to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#478)

YEAS: Senators: BRANNIGAN, COLLINS, COURTNEY, FARNHAM, HASTINGS, JACKSON, KATZ, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, JOHNSON, LANGLEY, SCHNEIDER, SULLIVAN, WOODBURY

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator SAVIELLO of Franklin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-940) **READ**.

On motion by Senator DILL of Cumberland, Senate Amendment "A" (S-558) to Committee Amendment "A" (H-940) **READ**.

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

Senator DILL: Thank you Mr. President. I heard and respect the comments that were made about how so much work has been done on this bill and I appreciate all the work that has been done. I also understand that the process will be that municipalities, through our tradition of home rule, will be able to zone whether or not they want to allow mining. The Department of Environmental Protection will issue the environmental permits. However, given the breadth and scope of a mining operation and the potential impact it may have on surrounding communities, this amendment would simply have as a prerequisite to the allowance of a mining operation a referendum vote in a county. That way if the good people of Aroostook County fully support the mining project that really is the subject of this bill, that Irving wants to do on Bald Mountain, they would have a vote. It's great. Everybody buys in in the community. If there is a proposed mine in a small town that has allowed mining, the surrounding towns will have the opportunity to weigh in and there would be a community discussion. With that, and giving the lateness of the hour, I am ready hear the motion for Indefinite Postponement. Thank you.

Senator COURTNEY of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-558) to Committee Amendment "A" (H-940).

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Dill to Adopt Senate Amendment "A" (S-558) to Committee Amendment "A" (H-940). 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 (#479)

YEAS: Senators: BRANNIGAN, COLLINS, COURTNEY, FARNHAM, GOODALL, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, GERZOFSKY, HILL, HOBBINS, JOHNSON, SCHNEIDER, SULLIVAN, WOODBURY

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator COURTNEY of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-558) to Committee Amendment "A" (H-940), **PREVAILED**.

Committee Amendment "A" (H-940) **ADOPTED**, in concurrence.

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

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

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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

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

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

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On motion by Senator **COURTNEY** of York, **ADJOURNED**, until Friday, April 13, 2012, at 10:00 in the morning, in memory of and lasting tribute to the Honorable Dana Charles Devoe of Orono.