

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

In Senate Chamber  
Tuesday  
June 19, 2007

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

Prayer by Senator Ethan Strimling of Cumberland County.

**SENATOR STRIMLING:** Good morning. I have to say that when I first got to the Senate being up here and leading the prayer was not something that I ever expected I would do. Once again I did something I shouldn't do. I lost a bet to the Senator from Cumberland, Senator Diamond. Don't take him up on push-ups or challenges of that sort. I am glad to be here. The reason that I would never expect to be here is that I grew up in a household that was very agnostic. That's putting it politely. My parents were from two different religions. My father is Jewish and my mother is Christian. Neither was particularly practicing, so we'd celebrate Christmas when I was with her and Seder when I was with my father. It was practically schizophrenic. I don't think I ever found much of a path in that direction. I still work towards it today. I do like one quote that I often hear that reminds me of what I suppose my faith is. It's a quote from Mother Jones. It's 'Pray for the dead and fight like Hell for the living.' For me, that drives my work. I'd ask that we take a moment to pray for the dead. Right now just close your eyes for a few moments and you choose to pray however you wish. Beyond that, for the rest of the day, I'd just ask that you fight like Hell for the living. Thank you very much.

Reading of the Journal of Monday, June 18, 2007.

Off Record Remarks

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

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

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

H.P. 918 L.D. 1300  
(C "A" H-576)

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

In Senate, June 18, 2007, on motion by Senator **MARTIN** of Aroostook, the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**, in **NON-CONCURRENCE**.

Senator **MITCHELL** of Kennebec moved the Senate **ADHERE**.

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

Senator **NASS:** Thank you, Madame President, ladies and gentlemen of the Senate. Just to remind everybody what this is. This came from the Taxation Committee. Basically, it's a proposal to return a portion of the sales tax revenue increases from year to year. The Maine Revenue Service already records where sales taxes come from by communities in the state. We already know that. From one year to the next, almost every year there is an increase. This proposal would allow 10% of that increase to stay in that community to be used for property tax reduction. I would urge that we support this.

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

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending the motion by Senator **MITCHELL** of Kennebec to **ADHERE**. (Roll Call Ordered)

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Govern Publicly Funded Advertising during Campaigns"

S.P. 630 L.D. 1779  
(S "A" S-302 to C "A" S-246)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-246)** (8 members)

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

In Senate, June 15, 2007, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-246) AS AMENDED BY SENATE AMENDMENT "A" (S-302)** thereto.

Comes from the House, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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**SENATE PAPERS**

Resolve, Authorizing the Department of Inland Fisheries and Wildlife To Convey Certain Lands

S.P. 735 L.D. 1930

Sponsored by Senator BRYANT of Oxford. (GOVERNOR'S BILL)  
Cosponsored by Representative BARSTOW of Gorham.

Committee on **INLAND FISHERIES AND WILDLIFE** suggested and ordered printed.

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

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**ORDERS**

**House**

**Ought to Pass Pursuant to Joint Order**

The Committee on **NATURAL RESOURCES** on Bill "An Act To Assist in the Cleanup of Waste Motor Oil Disposal Sites"  
H.P. 1368 L.D. 1929

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 1345.

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

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

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

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Provide Adult Adoptees Access to Their Original Birth Certificates"

H.P. 802 L.D. 1084

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

Signed:

Senators:

HOBBS of York  
HASTINGS of Oxford

Representatives:

SIMPSON of Auburn  
BRYANT of Windham  
MILLS of Farmington  
BERUBE of Lisbon  
JACOBSEN of Waterboro

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-601)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

DUNN of Bangor  
DILL of Cape Elizabeth  
CASAVANT of Biddeford  
NASS of Acton  
GOULD of South Berwick

(Representative LORING of the Penobscot Nation - of the House - supports the Minority **Ought To Pass as Amended** Report.)

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Amend the Nonresident Income Tax Filing Requirements"  
H.P. 490 L.D. 641

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-602)**.

Signed:

Senators:

PERRY of Penobscot  
NASS of York

Representatives:

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

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

Signed:

Senator:

STRIMLING of Cumberland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-602)**.

Reports **READ**.

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

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

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**ENACTORS**

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

**Emergency Measure**

An Act To Amend the Maine Certificate of Need Act of 2002  
H.P. 1229 L.D. 1763  
(C "A" H-569)

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

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**Emergency Resolve**

Resolve, To Establish a Working Group To Study the Effectiveness and Timeliness of Early Identification and Intervention for Children with Hearing Loss in Maine  
H.P. 881 L.D. 1239  
(H "B" H-566 to C "A" H-365)

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

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**ORDERS OF THE DAY**

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

**Emergency Measure**

An Act To Amend the Maine Certificate of Need Act of 2002  
H.P. 1229 L.D. 1763  
(C "A" H-569)

Tabled - June 19, 2007, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, June 14, 2007, **PASSED TO BE ENGROSSED AS AMENDED** by Committee Amendment "A" (H-569), in concurrence.)

(In House, June 18, 2007, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Mandate**

An Act To Require Notification before Withdrawal of Land from Classification under the Maine Tree Growth Tax Law for Failure To File Certain Statements

H.P. 557 L.D. 736  
(C "A" H-577)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Acts**

An Act To Amend the Prescription Privacy Law  
H.P. 5 L.D. 4  
(H "A" H-594 to C "A" H-584)

An Act To Promote Forest Management Planning and Certification  
H.P. 558 L.D. 737  
(C "A" H-585)

An Act To Allow Municipalities To Establish Foundations To Support Education  
H.P. 533 L.D. 702

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

An Act To Prevent Overcharging for Prescription Drug Copayments  
H.P. 607 L.D. 807  
(H "A" H-593 to C "A" H-482)

An Act To Enact the Informed Growth Act  
H.P. 1262 L.D. 1810  
(C "A" H-355; S "A" S-236 to H "A" H-383)

An Act To Make Technical Changes to the Repeal of the Personal Property Tax on Business Equipment  
S.P. 426 L.D. 1225  
(C "A" S-327)

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

An Act To Reduce Duplication of Paperwork for Fuel Distributors  
S.P. 455 L.D. 1307  
(C "A" S-320)

Senator **COURTNEY:** Thank you, Madame President. With regards to L.D. 1810, I'm wondering if someone could explain it. I see we have three amendments now. I'm wondering if someone could just summarize that for the record.

An Act To Provide Parity in the Laws Regarding Licensing of Electricians  
H.P. 986 L.D. 1403

Senator **COURTNEY** of York requested a Roll Call.

An Act To Amend the Conservation Easement Laws  
H.P. 1220 L.D. 1737  
(S "A" S-270; S "B" S-305 to C "A" H-490)

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

An Act To Improve MaineCare and Promote Employment  
S.P. 613 L.D. 1746  
(C "A" S-319)

Senator **SCHNEIDER:** Thank you, Madame President. First is the committee bill. The second amendment came from Representative Beaudette to allow for an opt out if communities have an impact study already. The other is a clarification that, even after this act is passed, if you enact an impact study you may opt out.

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

On motion by Senator **MARTIN** of Aroostook, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

An Act To Enable the Dirigo Health Program To Be Self-administered  
H.P. 347 L.D. 431  
(C "A" H-285; S "D" S-309)

**Resolves**

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

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell Interest in a Certain Parcel of Land  
H.P. 1360 L.D. 1922  
(C "A" H-583)

An Act To Authorize the Operation of Slot Machines on Indian Island in Old Town  
H.P. 532 L.D. 701  
(C "A" H-572)

Resolve, Regarding Options for Long-term Renovation and Use of the Buildings Formerly Occupied by the Augusta Mental Health Institute  
H.P. 1366 L.D. 1927

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

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

Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (6/15/07) Assigned matter:

Resolve, To Establish a Second Public Safety Answering Point for Kennebec County (EMERGENCY)

S.P. 184 L.D. 593

Tabled - June 15, 2007, by Senator **MITCHELL** of Kennebec

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-152)**

(In Senate, May 29, 2007, **OUGHT TO PASS AS AMENDED** Report from the Committee on **UTILITIES AND ENERGY READ** and **ACCEPTED. READ ONCE.** Committee Amendment "A" (S-152) **READ.**)

Committee Amendment "A" (S-152) **ADOPTED.**

Senator **BARTLETT** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Senator **BARTLETT:** Thank you, Madame President. This is one of those bills that vexed our committee. The Town of Waterville came to us with some very serious and legitimate concerns about PSAP consolidation. As many of you know, we've been trying to reduce the number of PSAPs down to 26 statewide. It's part of a consolidation effort. Like any good consolidation, as soon as you go down that path you realize there are a lot of problems as you try to bring communities together. Kennebec County has had a particularly difficult time pulling things together, in part because of concerns about some added costs to some of the communities and particularly to the Town of Waterville. Although the committee originally passed this bill, wanting to do something with it, some concerns have been raised since then. It has come to our attention that the cost of giving Waterville's PSAP to the E-911 fund would be in the range of \$117,000 a year. If you extend that to the other towns in Kennebec County who would be legitimately aggrieved and would also want the okay to have PSAP, you start getting into hundreds of thousands of dollars. If you take the next step and look at Cumberland County, York County, and other places who have had the exact same issues to address as Kennebec County did, you come to the realization that this could end up costing the people of Maine millions of dollars through the E-911 assessments, which is not the intent. It was also a concern that there would not be the funds available to fund it at the state level in any event. Finally, we have learned that the actual cost to the Town of Waterville is much less than anticipated. It's in the range of about \$60,000. Although that is certainly significant, it pales in comparison to the cost that the State would have to pay to grant a special waiver in this case.

For those reasons, I request support of the motion to Indefinitely Postpone.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bartlett to Indefinitely Postpone of the Bill and all accompanying papers. 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 (#177)**

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

NAYS: Senators: GOOLEY, MARRACHE, SHERMAN

ABSENT: Senators: BROMLEY, PERRY

30 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **PREVAILED.**

Sent down for concurrence.

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Off Record Remarks

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

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

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

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

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On motion by Senator **MITCHELL** of Kennebec,  
**RECESSED** until 11:00 in the morning.

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 (6/15/07) Assigned matter:

SENATE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Streamline the Regulation of Agricultural Composters"  
S.P. 176 L.D. 564

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-318)** (9 members)

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

Tabled - June 15, 2007, by Senator **NUTTING** of Androscoggin

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

(In Senate, June 15, 2007, Reports **READ**.)

Senator **NUTTING** of Androscoggin requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (6/18/07) Assigned matter:

An Act Regarding Campaign Finance Reporting and the Maine Clean Election Act

S.P. 668 L.D. 1854  
(C "A" S-279)

Tabled - June 18, 2007, by Senator **BRYANT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, June 12, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-279)**.)

(In House, June 15, 2007, **PASSED TO BE ENACTED**.)

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

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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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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later (6/18/07) Assigned matter:

**Emergency**

An Act To Regulate Outdoor Wood Boilers

H.P. 1272 L.D. 1824  
(C "A" H-494)

Tabled - June 18, 2007, by Senator **WESTON** of Waldo

Pending - **ENACTMENT**, in concurrence

(In Senate, June 12, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494)**, in concurrence.)

(In House, June 15, 2007, **PASSED TO BE ENACTED**.)

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. This bill came out of the Natural Resources Committee as an Ought to Pass after a great deal of work that was done by the committee. Some concerns have been raised about some of the ways in which the complaints that are presently

outstanding, or will be outstanding after the enactment of this bill, and some of the complaints some of you have been dealing with for the past couple of years might be handled. We've made it clear that DEP will work with the owners, dealers, manufacturers, and users to make sure that we try to solve the problem that we're facing. Clearly, one of the issues is what to do with non-enforcement and how should it be handled. What we have said, and it's in the bill, is that what will transpire is that if there is a complaint the DEP will address it. They will contact the owner, dealer, and manufacturer to try to work together to solve the problem that a particular individual may have and basically making sure that we deal with the issue. Also there is in legislation a provision for the nuisance factor so that this doesn't get carried way out of hand. Some of the people have been concerned that in some states they have simply gone in and shut down the boilers. This is not being proposed in this piece of legislation.

We know that in the past year there has probably been 20 or 30 real issues and we also know that in some instances some of the people who own the outdoor boiler simply have no interest in talking to anyone about the problem. Those are the ones that we'll work with. In particular, the DEP will notify the dealer and the manufacturer where that boiler happens to be so that if the DEP can't get through to the individual directly, or they won't let them on their piece of land, the DEP would most probably talk to the person that they bought it from and try to work out that problem. It's also clear that the department will promulgate rules and they will come back to us with substantive rules in January. The committee will then work with those and make sure that they meet the needs of all Maine people, including the next door neighbors of those people who happen to be effected by the boilers. It's clear that these boilers are becoming a method of usefulness because of the fact that we have quite a bit of wood in Maine and the fact that it is renewable and doesn't contribute to greenhouse gases. In the final analysis, this piece of legislation makes it clear that everyone's going to work together in order to solve the problems and we are not going to do what some other states have done, for example by attempting to simply shut them down by order through a department rule. I believe that we have crafted a piece of legislation that will work well for the state and work well for those who use the boilers and those who live next door as well.

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

Senator **RAYE:** Thank you, Madame President. I just wanted to rise to compliment the members of the Natural Resources Committee for working this issue out so carefully and thoughtfully. I do represent a part of Maine where wood burning is a tradition and where these wood burners are important to many families. I also represent at least one family who has suffered terribly as a result of an improperly installed and sited wood boiler. I believe that we have been able to strike a good balance here and I just wanted to lend my voice in support of the bill before us.

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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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:

**ENACTORS**

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

**Emergency Measure**

An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2007, June 30, 2008 and June 30, 2009

H.P. 597 L.D. 781  
(C "A" H-545)

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

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**Emergency Measure**

An Act To Protect Consumers from Rising Health Care Costs  
S.P. 664 L.D. 1849  
(C "A" S-237)

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

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

**ENACTORS**

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

**Act**

An Act To Exempt from the Income Tax Military Pay of Maine Residents Who Are Members of the Armed Services Stationed outside of the State Earned while on Active Duty  
S.P. 74 L.D. 236  
(C "A" S-232)

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

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Senate at Ease.

Senate called to order by the President.

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**ORDERS OF THE DAY**

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

An Act To Enact the Informed Growth Act  
H.P. 1262 L.D. 1810  
(C "A" H-355; S "A" S-236  
to H "A" H-383)

Tabled - June 19, 2007, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

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 Bromley.

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I was thinking on the way up this morning of a conversation I had with my son when I was trying to convince him to do something. I kept talking and then I talked some more. He said, 'Mom, I understand you. I just don't agree with you.' I'm hoping that I don't create that same problem here.

I just want to put a couple of facts on the record and encourage you to vote with me against the pending motion. This bill, of course, comes out because of deeply felt values and important points of views around sprawl and development. I have said on the record many times, and won't go down that path very far, that I don't believe the bill will do what we intended it to do. I believe it will do some things that we wish it wouldn't. Before you vote, bear in mind that there is currently not an opt out in this proposal. My community wishes to opt out but in order to be able to do that they must first enact an ordinance that they don't want in order to show that they have an ordinance so that they might opt out. That's the burden that we are putting on municipalities that do not wish to have this. I'll leave it at that and thank you very much for your kind attention.

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

Senator **SCHNEIDER:** Thank you, Madame President. I was going to hold off on saying anything but I missed my opportunity to give remarks on this bill. Since my good colleague from Cumberland, Senator Bromley, has chosen to open that door, I would like to put some remarks on the record regarding this piece of legislation, which I do feel is so important for our future.

We often speak about Maine's unique villages, towns, and cities, about our treasured communities and the importance of our downtowns. We speak about the wonderful businesses and our connections to them because they are owned and often operated by our neighbors, relatives, and friends. These are places we love and they are the places people visit, remember, and yearn for when they are not in Maine. They represent our culture and they say much about who we are. My strong support for L.D. 1810 is for the enhanced guidance it will provide to our singular communities when having to evaluate a large-scale retail project and it's costs and benefits by adding an economic and community impact review standard to municipalities land use permit standards for applications on retail stores 75,000 square feet or greater. It also provides for the applicant to submit an independent community impact study to the municipal board for its review. This is a pro-business bill in a number of ways.

As many of you know, I fought last session for L.D. 1481 to provide a time certain in which developers would know their project could not be undone by a citizens' initiative. It was and is a very good piece of legislation, in my opinion. Predictability is important to developers. Transparency is important to citizens. This bill will solidify a community's position on a project, enhancing predictability. When this bill is passed it is much more likely that developers and communities will be on the same page due to the in-depth information made available to them. Once communities vet this information and decide they want to move forward it is very unlikely they will want to undo the project and this will add predictability for developers. It much better to know up front if a community welcomes a project or not. Rhetoric about a 'chill' on business is easily undone because we have had enacted 20 mandated review criteria already for municipalities to apply to any subdivision. Found under Title 30A MRSA Section 44004, there is even an undue adverse impact criteria on traffic, air quality, and water quality because it is 'in the best interest of the state' and to 'encourage orderly growth and development in appropriate areas of each community and region while protecting the state's rural character, making efficient use of public services.' Preventing sprawl was and remains a State concern. This is an important tool. It is not to stop large retail development. Some communities may want it and God knows that genie is already out of the big box. It is an important tool because information about large retail development and the true nature of its impact on businesses, taxes, incomes, and jobs are critical in making good decisions for the future of our communities. I have heard from many constituents, citizens, and elected municipal officials, including a former mayor, not to mention all the business owners who support this positive addition to our criteria for municipalities. I urge your support of L.D. 1810 and I thank you very much for your indulgence.

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



Senator **COURTNEY**: Thank you, Madame President, men and women of the Senate. I'll be very brief. We've had a pretty long discussion about this. I just want to concur with the Senator from Cumberland, Senator Bromley. I just find it hard to vote in favor of a bill that would require a local community to pass an ordinance in order to opt out. From this Senator's perspective, it just doesn't make sense. I think we can do this locally. It's not just rhetoric. It does send a negative message across not only the state but also the country and in some of the home offices where some of these larger decisions are made as to where they are going to make the investment in the state. That is why I'm going to be opposing the motion. Thank you, Madame President.

**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 (#178)**

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

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

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

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

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On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Acts**

An Act To Protect the Housing Opportunities for Maine Fund  
H.P. 711 L.D. 936

An Act To Make Minor Substantive Changes to the Tax Laws  
H.P. 1054 L.D. 1504  
(S "A" S-307 to C "A" H-550)

An Act Concerning Technical Changes to the Tax Laws  
H.P. 1222 L.D. 1739  
(C "A" H-591)

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

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

**ENACTORS**

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

**Resolves**

Resolve, Directing the Department of Economic and Community Development To Analyze and Evaluate the Effect of Tax Increment Financing for Retail Businesses on Economic Development

H.P. 179 L.D. 208  
(C "A" H-592)

Resolve, Relating to the Wells-Ogunquit Community School District

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

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

---

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

**ENACTORS**

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

**Emergency Measure**

An Act To Clarify Election Laws Concerning Election Clerks' Qualifications

H.P. 29 L.D. 27  
(H "A" H-587 to C "A" H-568)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

**ENACTORS**

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

**Act**

An Act To Incorporate the Greater Augusta Utility District  
S.P. 621 L.D. 1754  
(C "A" S-314)

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 350

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

June 19, 2007

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

Dear Secretary O'Brien:

The House voted today to adhere to its previous action whereby it accepted the Minority Ought Not to Pass Report of the Committee on Legal and Veterans Affairs on Bill "An Act To Govern Publicly Funded Advertising during Campaigns" (S.P. 630) (L.D. 1779)

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Generate Savings by Changing Public Notice Requirements" (EMERGENCY)  
H.P. 1310 L.D. 1878

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-531).**

Signed:

Senators:  
SCHNEIDER of Penobscot  
BRANNIGAN of Cumberland  
BENOIT of Sagadahoc

Representatives:  
BARSTOW of Gorham  
WEAVER of York  
BEAUDETTE of Biddeford  
SIROIS of Turner  
CURTIS of Madison  
JOY of Crystal  
HAYES of Buckfield  
COTTA of China

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

Signed:

Representatives:  
BOLAND of Sanford  
SCHATZ of Blue Hill

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

Reports **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT**, in concurrence.

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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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Support Regionalization of Public Schools and Achieve Efficiency and Improve Quality"  
H.P. 685 L.D. 910

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-588)**.

Signed:

Senators:  
BOWMAN of York  
MITCHELL of Kennebec  
MILLS of Somerset

Representatives:  
MAKAS of Lewiston  
FARRINGTON of Gorham  
HARLOW of Portland  
SUTHERLAND of Chapman  
EDGEComb of Caribou  
STRANG BURGESS of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-589)**.

Signed:

Representatives:  
NORTON of Bangor  
FINCH of Fairfield  
McFADDEN of Dennysville  
MUSE of Fryeburg

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)**.

Reports **READ**.

Senator **BOWMAN** of York moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report, in concurrence.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **BOWMAN** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report, in concurrence.

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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 **TAXATION** on Bill "An Act To Clarify That Certain Separately Itemized Charges Are Subject to the Sales Tax on the Rental of Motor Vehicles"  
H.P. 1154 L.D. 1645

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

Signed:

Senator:  
NASS of York

Representatives:  
PIOTTI of Unity  
KNIGHT of Livermore Falls  
WOODBURY of Yarmouth  
HOTHAM of Dixfield  
CHASE of Wells  
PILON of Saco

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-510)**.

Signed:

Senators:  
PERRY of Penobscot  
STRIMLING of Cumberland

Representatives:

RAND of Portland  
CLARK of Millinocket  
WATSON of Bath  
LANSLEY of Sabattus

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510) AS AMENDED BY HOUSE AMENDMENT "A" (H-606)** thereto.

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)** Report, in concurrence.

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

Senator **NASS:** Thank you, Madame President and ladies and gentlemen of the Senate. This proposal was one of the most confusing I have ever engaged in during my years here. We had several of the major car rental companies in front of us over many weeks. In and out, in and out, trying to convince us that they had an issue. I have never been able to figure out what their issue was. In the end, we see in the other Body an amendment that is now in front of us that they all say is the fix on this.

**THE PRESIDENT:** The Chair would just remind the Senator from York, Senator Nass, that the motion before you is Acceptance of the Minority Report.

Senator **NASS:** Thank you, Madame President. I'm urging the Body to allow us, at some point, to fix this for these three companies because I think it is available. I am opposed to the motion before us because I can see a brighter future for this. Thank you.

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

Senator **PERRY:** Thank you, Madame President. The Senator from York, Senator Nass, is right. We listened to this for a long while and couldn't ever get to what folks were trying to do here. I am now told that everyone is in agreement. I thought the motion I made got us to where we are. If I am mistaken, I would encourage folks to vote against my motion. However, I'm still not sure how we get to this fix. I really wasn't prepared for this, Madame President.

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

Senator **NASS:** Thank you, Madame President. I agree. I think that the brighter future is following the Taxation Committee's chair. It appears that this is the next step. I would agree that the current motion should be supported.

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

Senator **DOW:** Thank you very much, Madame President. In the spirit of what's going on, would you please tell us again what you two have agreed to? I'm confused.

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

Senator **NASS:** Thank you, Madame President. It is inherent by that question that this is the problem. We don't really know. We never really understood what the problem was with this other than it appeared that for one of the companies there was an advantage to the State of Maine. It had to do with how many cars in the rental fleet of this particular company were registered in the State of Maine as opposed to the other two companies. While it appeared there was some advantage for us, the State of Maine, it was unclear as to what this fix was supposed to accomplish. Now comes the forbidden message here, which we can talk about later.

On motion by Senator **PERRY** of Penobscot, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-510) **READ**.

House Amendment "A" (H-606) to Committee Amendment "A" (H-510) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-510) as Amended by House Amendment "A" (H-606) thereto, **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 **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **COURTNEY** of York, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

Senator **PERRY:** Thank you, Madame President. The rental car market is very competitive. Nowadays, people are booking these rental cars on line through Expedia or whatever these sites are. It all pops up cheapest through most expensive. Lots of folks go to the cheapest. This was an effort brought to us by Enterprise Rental Car to remove, as other states do, some of the things that they are able to charge and are figured into their base rate so that when they come up on the screen it is their base rate showing and then the taxes come in afterwards. It is an effort to separate taxes and fees that they are allowed to put into their rate and have them come on in a tax line versus their base rate in an effort

to get the most attractive rate possible on their internet websites. Everyone is held to the same standard. They are allowed to recoup part of their registration costs and put it into their rates. It separates that out. Some of the opposition seemed to come from car companies who prefer to register their cars in other states. Enterprise registers all their cars here in the State of Maine. We wanted to give them a nod because we think that's a good practice, registering them here. We crafted language that addressed everyone's concerns. They are all in agreement and hopefully when their rates come up on these websites it will show 50¢ to \$1.00 less. It's that small amount of money that they were trying to get to in order to improve their rates. That is what this does.

**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:

**Acts**

An Act To Amend the Credit for Rehabilitation of Historic Properties

H.P. 218 L.D. 262  
(C "A" H-595)

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

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An Act To Encourage Newly Retired Veterans To Reside in Maine  
H.P. 407 L.D. 529  
(C "B" H-560)

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

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An Act To Protect the Health of Infants  
H.P. 507 L.D. 658  
(C "A" H-598)

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

An Act To Exempt Military Pensions and Survivors' Benefit Payments from State Income Tax

H.P. 661 L.D. 872  
(C "A" H-555)

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

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An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile

S.P. 535 L.D. 1512  
(H "A" H-590 to C "A" S-203)

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

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An Act To Extend from 4 to 6 Terms the Limits on Legislative Terms

H.P. 1367 L.D. 1928

Senator **MARTIN** of Aroostook moved the Bill and accompanying papers be placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Same Senator requested and received leave of the Senate to withdraw his motion to place the Bill and accompanying papers on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

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

Senator **MARRACHÉ:** Thank you, Madame President. I just have a question. I want to know why this would be placed on the Special Appropriations Table?

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

Senator **MARTIN:** Thank you, Madame President. I believe this matter goes to the voters and therefore requires State money for the referendum.

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

---

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

**ENACTORS**

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

**Acts**

An Act To Adjust the School Funding Formula with Regard to Unorganized Territories

H.P. 368 L.D. 484  
(H "B" H-600 to C "A" H-261)

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

An Act To Eliminate the Property Tax on Business Equipment Owned by Small Retailers

S.P. 318 L.D. 1001  
(C "A" S-321)

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

An Act To Allow a Tax Credit for College Loan Repayments

I.B. 2 L.D. 1856  
(C "A" H-414)

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

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

**ENACTORS**

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

**Resolve**

Resolve, To Provide Reimbursement for Residential Care Facilities for Rising Heating Costs and Cost-of-living Adjustments

H.P. 735 L.D. 975  
(C "A" H-599)

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

Senate at Ease.

Senate called to order by the President.

**ORDERS OF THE DAY**

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

An Act To Establish a Labor Center within the University of Maine System and To Restore Lost Funding to the Bureau of Labor Education

H.P. 115 L.D. 123  
(C "A" H-142; S "A" S-138)

Tabled - June 5, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-142) AND SENATE AMENDMENT "A" (S-138).**)

(In House, June 1, 2007, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

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

**Resolve**

Resolve, To Ensure Appropriate Personal Needs Allowances for Persons Residing in Long-term Care Facilities

H.P. 501 L.D. 652  
(C "A" H-237)

Tabled - May 30, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 23, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-237)**, in concurrence.)

(In House, May 29, 2007, **FINALLY PASSED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

---

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

An Act To Strengthen Rural Community Investment  
S.P. 239 L.D. 790  
(C "A" S-52)

Tabled - May 8, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 26, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-52).**)

(In House, May 3, 2007, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

---

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

An Act To Support the Maine Patent Program  
H.P. 632 L.D. 833  
(C "A" H-225)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 22, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-225)**, in concurrence.)

(In House, May 24, 2007, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

---

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

An Act To Improve Employment Opportunities for Persons with Disabilities in Maine

S.P. 349 L.D. 1032  
(C "A" S-71)

Tabled - May 15, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, May 2, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-71).**)

(In House, May 10, 2007, **PASSED TO BE ENACTED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

---

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

**Emergency Resolve**

Resolve, To Demonstrate Cost Savings by Preventing the Onset of Severe Mental Illness in Youth

H.P. 1092 L.D. 1567  
(C "A" H-204)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 16, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204)**, in concurrence.)

(In House, May 22, 2007, **FINALLY PASSED.**)

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Sent down forthwith for concurrence.

---

Senate at Ease.

Senate called to order by the President.

---

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

**Resolve**

Resolve, Requiring the Maine Community College System To Return Real Property and Buildings to the City of Eastport  
H.P. 192 L.D. 221  
(C "A" H-54; S "A" S-110)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 17, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-54) AND SENATE AMENDMENT "A" (S-110).**)

(In House, May 24, 2007, **FINALLY PASSED.**)

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

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

An Act To Ensure the Integrity of School Crisis Response Plans  
H.P. 193 L.D. 222  
(C "A" H-415)

Tabled - June 12, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 6, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-415)**, in concurrence.)

(In House, June 11, 2007, **PASSED TO BE ENACTED.**)

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

---

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

An Act To Increase the Availability of Public Education Services from Child Development Services  
S.P. 99 L.D. 317  
(C "A" S-142)

Tabled - June 5, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-142).**)

(In House, June 1, 2007, **PASSED TO BE ENACTED.**)

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

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

An Act to Repeal Delayed Estate Recovery  
H.P. 730 L.D. 970  
(C "A" H-325)

Tabled - June 5, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 1, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325)**, in concurrence.)

(In House, June 5, 2007, **PASSED TO BE ENACTED.**)

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

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

An Act To Amend the Laws Governing the Burial or Cremation of Certain Persons  
H.P. 740 L.D. 980  
(C "A" H-366)

Tabled - June 12, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 6, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366)**, in concurrence.)

(In House, June 11, 2007, **PASSED TO BE ENACTED.**)

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

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



An Act To Amend the Tax Laws Concerning Certain Motor Vehicle Dealership Transactions

S.P. 322 L.D. 1005  
(C "A" S-233)

Tabled - June 13, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 11, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-233).**)

(In House, June 12, 2007, **PASSED TO BE ENACTED.**)

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

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

**Resolve**

Resolve, Directing the Department of Education To Encourage School Administrative Units To Encourage Secondary School Students To Apply to College

H.P. 758 L.D. 1040  
(H "A" H-180; S "A" S-100)

Tabled - May 17, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 10, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-180) AND SENATE AMENDMENT "A" (S-100).**)

(In House, May 16, 2007, **FINALLY PASSED.**)

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

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

An Act To Increase Caps on Damages in Actions under the Maine Human Rights Act

H.P. 964 L.D. 1372  
(C "A" H-303)

Tabled - June 5, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, May 31, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-303)**, in concurrence.)

(In House, June 4, 2007, **PASSED TO BE ENACTED.**)

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

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

An Act To Define the Process for a Municipality To Secede from a County

S.P. 656 L.D. 1840  
(C "A" S-148)

Tabled - June 5, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, May 30, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-148).**)

(In House, June 5, 2007, **PASSED TO BE ENACTED.**)

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

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

An Act To Implement the Recommendations of the Task Force To Engage Maine's Youth Regarding Successful School Completion

H.P. 1296 L.D. 1860  
(C "A" H-474)

Tabled - June 15, 2007, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, June 12, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**, in concurrence.)

(In House, June 14, 2007, **PASSED TO BE ENACTED.**)

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

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

**Resolve**

Resolve, To Authorize the State To Sell a Certain Property with Buildings Located within the City of Old Town  
H.P. 1343 L.D. 1911

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 22, 2007, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, May 24, 2007, **FINALLY PASSED**.)

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

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Support Regionalization of Public Schools and Achieve Efficiency and Improve Quality"  
H.P. 685 L.D. 910

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-588)** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-589)** (4 members)

Tabled - June 19, 2007, by Senator **WESTON** of Waldo

Pending - motion by Senator **BOWMAN** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report, in concurrence

(In House, June 19, 2007, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)**.)

(In Senate, June 19, 2007, Reports **READ**.)

On motion by Senator **BOWMAN** of York, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-589)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "B" (H-589) **READ** and **ADOPTED**, in concurrence.

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

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Senate at Ease.

Senate called to order by the President.

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

**Emergency Measure**

An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2007, June 30, 2008 and June 30, 2009  
H.P. 597 L.D. 781  
(C "A" H-545)

Tabled - June 19, 2007, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, June 18, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-545)**, in concurrence.)

(In House, June 19, 2007, **PASSED TO BE ENACTED**.)

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

Senator **WESTON:** Thank you, Madame President. If you will recall the debate that we had earlier this year on our bond package, you will recall the statements by many about the need and agreement concerning the need for our infrastructure repairs. We recently had a vote on this bill. What you will see is some having difficulty. I want to explain that difficulty. We believe the Constitution is very clear about borrowing and the need for those in the public to have a say in that borrowing. We do not question anything about the need for funds for highways and bridges. Some do have difficulty with the part of this bill that does not require a \$50 million bond to have approval by the public. That is why you saw many hoping that we could make a difference. That hope is now gone and I am supporting this bill. I am supporting it because I know the need is out there, but I also want to go on record as saying that I think it should have been done differently. I'm not willing to hold up the funds necessary to fix our road and bridges, but it is with difficulty that I accept the \$50 million GARVEE bond without approval from the public. Thank you.

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

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I want to thank my fearless leader, the Senator from Waldo, Senator Weston, for her comments with respect to GARVEE. I do think it's a mistake not to send these out to the voters even though we are not required to. Regrettably, we have a history in Maine of taking financing activities and stringing them out to their maximum capacity. It's my fear that GARVEE, which was promised two years ago to simply be a vehicle for emergencies, is now going to be woven into our strategy to fund our highway and bridge activity on a go-forward basis. I obviously oppose this, but I plan to support the bill on enactment because I do believe we need to move forward and get on with the repairs. I want to be on record as saying I think we made a mistake. We're not sending this to the voters for their affirmation. I think we have a propensity to abuse these funding mechanisms. I will, for the record, say that one more time. We tend to abuse these vehicles and regrettably I think we will look back in a few years and those who have the occasion to read the record will say, 'By gosh, that guy from Cumberland was right.' Thank you very much, Madame President.

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

Senator **BRANNIGAN**: Thank you, Madame President and members of the Senate. I just can't let that go. As a former Chair of the Transportation Committee and the Appropriations Committee, borrowing is a very important part of what we do. With some borrowing we go out to the public, on general obligation bonds. Other borrowing, borrowing on revenue, is something that is our job to decide on. Other people in our towns and cities borrow and they don't have to go out to the people. They don't go out to the people. The University of Maine and others have the ability to bond on revenue. They do it and they don't have to have this huge okay. GARVEE bonds, facility bonds, and revenue bonds, those are our bailiwicks. We should be willing to do them and to make sure they are within our limits. I believe we do. I don't believe we abuse our bonding privileges. Thank you.

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

Senator **DAMON**: Thank you, Madame President, ladies and gentlemen of the Senate. I appreciate, sincerely, the concerns of my colleagues with regard and respect to bonding. I also appreciate the comments of the Senator from Cumberland, Senator Brannigan, with regards to his comments that bonding or borrowing is needed for what we do.

As far as I know, there are three vehicles for borrowing, for bonding, that we utilize here in the Legislature. One is the General Obligation Bond, which requires the full faith and credit of every citizen of the State of Maine. Because it requires that kind of commitment and that obligation, it ought to be voted on by the citizens of the State of Maine and of course it is. It has a high threshold; 2/3 of the majority of the Legislature and then the vote of the people. There are two other types and two other vehicles of bonding which are available to us and which we must take advantage of if we are to accomplish the needs that are before us, especially with regards to our transportation infrastructure. One is the Revenue Bond, which is serviced by a stream of

revenue that is dedicated to that service and its retirement. The other is the so-called GARVEE bond. The GARVEE bond is similar to a revenue bond in that it is retired. Its debt and principal is serviced by a portion of the Federal Highway Fund dollars that come into the State of Maine. Neither of those two vehicles requires the full faith and credit of the entire State of Maine. Thus, if there is a default, the default is the problem, apart from our sensitivities, of the lender.

With regard to GARVEE, we had utilized that bond instrument only one other time in the history of the State of Maine. We did it for a capital project that has now been completed. We did it with a simple majority vote of this Legislature. That's the tool. That's the opportunity. We used that tool and took that opportunity. There was another opportunity more recently for a GARVEE. That GARVEE bond, according to its sponsor, was to be sent out to the people for a vote. It wasn't necessary, but nonetheless it was the proviso for which perhaps that would pass. That didn't pass. We didn't send it out to the people. I think past practice would show us that the Legislature is willing to act on its authority with regards to GARVEE and not necessarily to send it out to the people. I do sincerely appreciate the concerns around borrowing, the concerns that you have expressed, it is my considered opinion that this particular GARVEE, which is imbedded in this Highway Fund Budget and which is integral to the next capital work plan that we have moving forward to be financed by this Highway Fund Budget. It is important that GARVEE passes and I'm pleased to know that, in spite of the opposition and your feelings to the contrary, you are willing to support this budget. I urge you to do so. Thank you.

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

Senator **TURNER**: Thank you, Madame President. I wonder if anyone in the Chamber could answer a question regarding the limitation that we will voluntarily operate under with respect to GARVEE and lay out for us, if they can, the two-year cycle in which they envision \$50 million GARVEE bonds going out every two years in order to keep a capital program for transportation going. How are we going to be able to do that and not fully encumber our forward federal highway revenues? I would appreciate an explanation for the record, if one is forthcoming. Thank you, Madame President.

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

Senator **DAMON**: Thank you, Madame President. With regards to the good Senator's inquiry, I would like to be able to do that, however, that strategy and that bonding indebtedness limit is tied up in a matter that is not before us. If we have a chance to get into that matter a little bit later, I think that question will be thoroughly answered and considered because the Transportation Committee has developed a borrowing strategy which would not have us exceed a certain debt-to-income ratio level. I'll have to leave it at that. Thank you, Madame President.

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

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

Senator **TURNER:** Thank you, Madame President. If I do understand the good Senator from Hancock, Senator Damon, there are no current limitations before us with respect to GARVEE and we could just proceed willy-nilly without any limitation whatsoever. We're depending on something that is not yet before us, that we must pass in order to control GARVEE's use. Am I correct?

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

Senator **DAMON:** Thank you, Madame President. To the good Senator's inquiry, I wouldn't characterize it quite that way. There are borrowing limits that we currently have to subscribe to that are further designated in an upcoming issue, but not in this particular bill.

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

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. I'm looking at Section 1612 of the Committee Report. If I'm reading it correctly, I think it says that the limitation is that the payment that you make on the GARVEE bond, the average payment, may not exceed 15% of the money that you expect to receive in federal funds for the same year. I don't see any limitation on the gross amount that you can borrow through GARVEE, but it would be limited only on the basis of the debt service amount that would be required to amortize the bond. There is another limitation and that is to a period of 15 years, which is 5 years longer than we've been accustomed to when borrowing money for highway projects through General Obligation Bonds.

I share a very deep concern about this process and the absence of public ratification. We got into trouble as a state back in 1948 and the people of Maine passed an amendment to the Constitution that prohibited us from pledging our credit in any form, directly or indirectly. The financial institutions in New York and other places have taught us how to borrow money off the books, if you will, by pledging only revenue streams and other forms of security that they apparently find acceptable. These are the same people whose junior partners are selling credit cards to our college kids. Apparently they have succeeded in instructing us how to borrow very large sums of money without getting the people's approval despite what the people voted for in 1948. I think it's a shame we can't come to grips with the needs of our highway system in a more direct and forthright way. Thank you.

**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 (#179)**

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

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

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 6 Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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The Chair laid before the Senate the following Tabled and Later (6/14/07) Assigned matter:

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Secure Maine's Transportation Future"

S.P. 634 L.D. 1790

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-308)** (11 members)

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

Tabled - June 14, 2007, by Senator **DAMON** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

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

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

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

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

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

Senator **DIAMOND:** Thank you, Madame President. Would someone care to give us an explanation of this bill?

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I'd be happy to try to accommodate the good Senator's request. L.D. 1790, An Act to Secure Maine's Transportation Future, may be the most important transportation related bill that has come before this Legislature in the last 50 years. I say that because I recognize fully, as I hope many of you do, that the need for maintaining our present transportation infrastructure, our roads, our bridges, our airports, our trains, rail tracks, and our port facilities, is not able to be accomplished within the current Highway Fund funding formula. The Highway Fund, the bill that we just passed, is the only budget in the state this year that is being decreased. In case you didn't hear it, the Highway Fund is the only budget in State government this year that is being decreased. The amount of money that we can spend is being decreased primarily because the revenues that come into that fund come from the fuel tax. The fuel tax, for a number of reasons, perhaps because of the price of fuel, perhaps because of peoples' decisions to drive less, or perhaps because of peoples' decisions to buy more fuel efficient vehicles, that revenue stream has decreased. We are now asked to do more in terms of taking care of our roads and our bridges with less. We can't do that. If there is anybody in this chamber, anybody in this Legislature, or anybody in this state who thinks we can I would urge them to come forward.

The fact is that we can't and we have to find another funding model to take care of our infrastructure needs, or as I have said, perhaps we can reduce some of our infrastructure. Close some of our bridges or close some of our roads because we can't take care of them. That's not a good policy. You know it. I know it. It's not good for the traveling public. It's not good for our commerce. It's not good for our economic development. What we need to do is find a way that we can take care of that infrastructure so that we'll have safe roads, we'll have efficient transportation infrastructure, and we'll be able to grow.

That's what L.D. 1790 does. It identifies our needs, the number of miles that need to be built, built to present modern day design standards; it identifies the bridges that need to be built, repaired, or replaced; it sets in motion a timeframe for that rebuilding or building; it provides the funds necessary for that project; it provides the oversight which is necessary; and it provides for a report to be submitted back to the committee of jurisdiction of those transportation matters from the Department of Transportation annually to show what we have done, to show how much we have left to do, and to show that we are indeed on track with what we set out to do. That is historic. We've set up designs before and we've set up programs before, but we've never been able to adequately fund them. That's what this bill does. It takes that funding from a number of different sources. Originally, as it is before you before it may be amended, it would require that one penny, one cent, from the sale of automobiles and trucks, and automobile related accessories, be diverted into the Maine Municipal Bond Bank so that it could be used to leverage additional monies to get the job done. In addition to that there are some other revenue streams that I'll be happy to go into.

Let me just lay out the cost of getting this job done so that you will know the enormity of the project before us. The cost of getting this job done for the next 25 years is projected to be \$162

million a year. That's in addition to our present Highway Fund budget. That's just to build, and to rebuild, what we have. That's ongoing. We need to leverage those monies coming into that Maine Municipal Bond Bank to issue Revenue Bonds. There will also be the request for GARVEE bonds wrapped up in that. Both of those bonds will be serviced by either the revenues coming into the fund or by future federal highway fund dollars.

That's essentially what this bill does. Within the bill it sets up borrowing limits. The good Senator from Cumberland, Senator Turner, asked about that. I believe I was a little remiss in my answer because, indeed, in the Highway Fund budget there is a debt ratio in there of 15% and it occurs likewise in this bill so that the borrowing cannot exceed 15% of the capacity of the incoming revenues. All of that together is very ambitious. All of that together is necessary. All of that together is what we are faced with. I will leave the answer at that and then I will be prepared to offer an amendment. Thank you, Madame President.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I want to thank the good Senator from Hancock, Senator Damon, for his explanation of L.D. 1790. As a member of the Transportation Committee, I would applaud him for his efforts to make this what is probably the boldest effort to be made in some time. However, there are a couple of things, two very serious parts of this bill, that are, for me, a deal breaker. It does not cause me a great deal of favor to speak against my committee chair, but I feel strongly about these two issues and I want to share those with you before we take the vote. I think the best part of this bill, and probably one of the key parts, is establishing long-term goals and objectives. That's very important. I happened to do my Masters thesis on writing behavioral objectives, cognitive and effective. I can tell you that these are done very well. The serious concern, for me, focuses on two things. One, the impact this will have on the General Fund. This says right up front that there will be a change in the formula for the General Fund funding of the Department of Public Safety from 40% to 50%. That may be a good idea, but we don't know that yet. The Transportation Committee, I think, just got approval to do a study this summer to examine what that percentage should be. It seems a bit premature that we would pass a bill now, with 50 - 50 funding percentages for the Department of Public Safety. I think that's a little premature and I'm concerned about the impact it would have on the General Fund. I'm also concerned about the loss of General Fund money through the tax on car rentals that is in this bill and the shifting of that tax. There are several fees that will be increased in this bill. In all fairness, I think there would be an attempt later to amend that and change those. We're talking about the bill right now. Those fees include fees on trailers; semi and camp trailers, and includes fees on registration fees, title fees, vanity plates, and so on. To me, as well intended as this is, that many fees and those kinds of increases, if you add that with the impact this has on the General Fund, are just something I could not go along with. I would urge you to vote against the motion. Let the Transportation Committee do their study this summer, find out for sure what the percentage should be and the impact on the General Fund, and then maybe deal more with the fees that have been proposed to be increased in this bill. Thank you, Madame President.

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

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. There are a couple of things I want to refer to because I do support long-term help for the highways. I believe this bill does that. Even though we may make some changes to it, there are a couple of items or areas that I want to speak to. Number one, the increases in the registration fees. I may be incorrect but I don't think those fees have been changed for 18 years. With the help of a calculator and a pocket full of pencils, sometimes there is nothing wrong with a good geek Senator. If we just had a simple 2% inflation rate, just a simple 2%, in 18 years would mean a 46% increase. All of these fee increases that are being requested are under that. The \$23 to \$30 is a 30% increase. The only one that is greater than that is the vanity plate, which is a luxury item, not a necessity.

What I really want to speak about is, and I'm looking forward to a study done by the Highway Department this summer, the fees that are paid to the Highway Department out of the General Fund. This goes way back for me to when I was at least 10 years old because my father, of course, was in the Senate. He was on the Transportation Committee. I learned at a very early age, over and over again, that the gasoline taxes and any money dedicated to the Highway Fund can only be used for that fund and are constitutionally protected. That's the part I wish to speak about. The OPEGA Committee looked at that and came up with an opinion. In several areas, not just the State Police, they estimated between 17% and 34% of the cost of funding by the State Police appropriations program are eligible to be paid from the Highway Fund. Right now 65% is paid out. Also two other areas, the Bureau of Highway Safety appropriation currently receives 100%. OPEGA looked at it and said it could be as high as 100% but it may be as low as 82%. The Department of Public Safety currently receives 64% from the Highway Fund and it is more likely eligible to receive 29% to 41%. I'm interested in that study.

The key to the study, the OPEGA study, as you read through it was the appendix. In the appendix are three opinions from the Attorney General's Office. I don't normally read testimony that is written. I usually do everything off the cuff, as you know. I must highlight some of the areas that are in this report. This one is back in 1991 and talking about Article 9, Section 19, of the Maine Constitution and what it provides. I have highlighted, 'Shall not be diverted for any purpose.' This is talking about the gasoline taxes. 'Any dedicated funds shall not be diverted for any purposes provided that these limitations shall not apply to revenue from the excise tax.' Apparently excise tax can be diverted, but nothing else can be diverted.

The question has been posed twice before. People have asked if the General Highway Fund could be used to fund expenses of the State Police. This deals with that directly. The answer is 'yes', some of it can but only those parts that have to do with enforcing the highway laws. You cannot divert highway funds for State Police investigation of robberies or anything like that. It's only for traffic enforcement. This is in the Constitution. If the Legislature determines to use the General Highway Fund for this purpose, that is for the General Fund, it is constitutionally obligated to make a good faith inquiry and estimate of the portion attributable to this purpose, that is using it for the General Fund. In the Attorney General's opinion in 1981, again inquiring activities of the State Police, the Constitutional Mandate is quite

clear. The Maine Constitution requires that the General Highway Fund revenues be expended solely for specifically enumerated purposes, including expense of State enforcement of traffic laws, and not to be diverted for any other purpose.

The determination of the percentage to be used each year, to make a long story shorter, must be determined by the Legislature. It cannot be determined by OPEGA, although OPEGA's results can be used. In another opinion of 1980, it cannot be the opinion of the audit committee that determines it but only through using that information can the Legislature determine that. It is further stated, quite strongly, it is the duty of each Legislature, and we are the 123<sup>rd</sup>, to determine what the percentage is that is to be appropriated for the State Police and other areas out of the Highway Fund for those purposes and those purposes can only be for highway related areas. They cannot be diverted for anything else.

I think that we have done ourselves not only a disservice but we have failed in our duties to take this question up in the last few Legislatures. We have allowed the funding out of the Highway Fund to fund the State Police and some areas to go further. I think this has created a hole in the budget for the Highway Department. I do believe it is our duty to go back and take a good look at that. That's why I support L.D. 1790. We may debate later on moving from 75% to 25% going to the General Fund for the State Police, but just the fact that we're going to take a look at it and what the report that OPEGA came up with leaves me to believe that our funding out of the Highway Department is too great and a greater portion of it constitutionally belongs in the General Fund. I believe that we are open, as a state, to a lawsuit by any citizen or trucking company that wanted to file a lawsuit claiming that the dedicated funds from the gasoline tax are not being used properly. I believe, I'm not a lawyer, such a suit would win and cause an immediate change in the way we do our funding. Therefore, I do support this bill for that reason. I think it will help solve one of the problems of funding. To me it isn't the raising of the rates that we need to look at first to fund the Highway Department, it's plugging up some of the leaks that we have allowed to occur through our own negligence. I believe that we have done so improperly. Thank you, Madame President.

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I want to thank both of my good friends, the Senator from Lincoln, Senator Dow, for his support and the Senator from Cumberland, Senator Diamond, for his concern with regards to the bill that is before us. I want to address a little bit of the concern expressed by my good friend, the Senator from Cumberland, Senator Diamond. Unfortunately, I won't be able to do that directly unless we can pass the motion that is before us because my comments would deal with a pending amendment. If your curiosity is sufficient to have you find out what's in that amendment then you can vote 'green' on the pending motion. I do want to speak with regards to structural gap. It is true and was a concern of the Senator and a concern of mine and should be a concern of yours, because it takes some of the money that before was going to the General Fund and directs that to the Highway Fund. What money is that? It's the money on the sale of automobiles and trucks. Those very machines that use our roads, that wear out our roads, and that we are now looking to have help repair our roads. It takes some of the money

from the sales tax derived from auto rentals. Again, automobiles that use our roads. It takes some of the sales tax for that. It takes, indeed, some of the fees that we pay for our licenses, for our titles, and for our registrations of vehicles that use our roads and of our privilege to drive on our roads. It exacts a fee from that to go back into our roads and bridges. Indeed, as has been mentioned, it looks to address the funding inequities that have been uncovered by the OPEGA audit as it pertains to the Highway Fund's funding of the public safety in the State Police budget.

It should be noted that all of those fees that are being directed away from the General Fund do not come out of this biennial General Fund budget. They would not, if this bill was successful, be exacted from that budget until the biennial budget and then it would only be incrementally for the successive five biennial budgets from that, going out 12 years to finally get to the maximum amount of diversion from the General Fund to the Highway Fund. It is a diversion, a redirection of revenues, and it does cause a structural gap in the General Fund budget. I would submit to you when we have a structural gap in the Highway Fund budget, which we do now, we have gaps in structures and that's not part of the safety, the convenience, or the economy of the State of Maine. Those are real gaps. Those are not just fiscal gaps. Those are holes that we fall into, literally and not just figuratively. Those are the gaps that we need to plug. If you vote 'yea' or if you vote 'nay' either way you are going to pay, as are the people of the state of Maine. If you vote 'nay' unfortunately you will pay more. I urge your support of the pending motion so we can move forward with this. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. I wish to pose a question through the Chair.

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

Senator **RAYE:** Thank you, Madame President. Am I correct in my understanding that this legislation, as amended by the Committee Amendment, in no way effects revenues available to municipalities?

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

Senator **DAMON:** Thank you, Madame President. The short answer to that is yes, he is correct.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I think we do have to understand, having heard all the good words from the good Senator from Hancock, Senator Damon, that we are increasing registration fees and title fees. If somebody buys a new car they are going to be hit with those combinations, I might add. We're increasing the vanity plate fee. That may be considered a luxury, but for some people it's like their own little thing that they do and maybe it's one of the

few things that they do. We're going to jump that considerably. Again, that carries concern, but the biggest concern, I will submit to you, is the impact on the General Fund before the study this summer is even done. It just seems to be, although well intended, a little backwards and reversed. I would suggest to do the study this summer and then come back to this legislature and say that it should be 52%, 48%, or whatever and we can verify that. I think right now by blinding going at the General Fund and making that kind of an impact is something I don't think we really want to do. Thank you, Madame President.

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

Senator **ROSEN:** Thank you, Madame President and Senate colleagues. My inquiry related to this bill is on the work plan side of the proposal. As the Transportation Committee chair indicated, this is a significant policy directive. This bill sets forth very specific goals of work that is to be performed. I'm not sure if there was a time in the past when the Legislature has put in statute, with the specificity that this bill seems to lay out, that by 2022 to reconstruct principle and minor arterial highways that are not built to nationally accepted standards; by 2027 to reconstruct those State highways not built to the Department's standards; and other goals by 2027. There is a whole list of specifics that are listed in the bill. Specific projects. To help me understand the promise of the projects that we, as a Legislature, will be adopting in statute to be performed by a time certain as goals and as specific proposals in exchange for the variety of different funding mechanisms that are being proposed in the legislation, am I to understand that there is broad and general agreement between the Department of Transportation, the Governor's Office, and the Legislature and buy in to, in fact, achieve these goals? The bill is a creative and forward-looking proposal from advocates and friends of transportation. It isn't clear to me, though, whether or not the Department of Transportation has embraced in full the goals and objectives that are laid out in the bill and if they can relay to us the confidence in their ability to, in fact, achieve those goals.

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

Senator **DAMON:** Thank you, Madame President. Questions from the good Senator from Hancock, Senator Rosen, are well taken and he quoted very nicely and correctly from the proposed bill. I'll simply answer by saying that as this bill was being drafted the Department of Transportation, with the encouragement of the Chief Executive, has been involved with the drafting of this legislation, the development of those goals, and the adherence to those time tables along every step of the way. There has been tacit approval because of that inclusion in the process and there has been no objections coming to the committee or coming to the sponsor of the bill that these goals cannot be met and will not be met. That was my assurance that all parties were on board with this and that the oversight of the Joint Standing Committee of jurisdiction in this matter would be the committee that would continue that oversight and make sure that those standards and goals were obtained.

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

Senator **TURNER:** Thank you, Madame President. I do plan to be around in 2027 to make sure that all of these roads meet the standards that this bill suggests. I did want to reflect on the answer given to the good Senator from Washington, Senator Raye, with respect to municipal revenue sharing. It does seem to me, if I have read the fiscal note correctly, that in the first out biennium, fiscal year 1010 - 1011, the General Fund loses \$47 million and it goes up from there in succeeding bienniums. I don't see how, if that fiscal note is correct, that does not have some impact on municipal revenue sharing. I would suggest to the Senator from Washington, Senator Raye, that municipal revenue sharing is impacted. Thank you very much.

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

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I probably won't be able to check on these roads in the year 2027, but I have a question I'd like to pose if I may.

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

Senator **MITCHELL:** Thank you, Madame President. If we vote against accepting this report we will have the status quo in paying for our roads. I want to be sure. I want to know the consequences of doing nothing because I'm concerned about many of the issues that you have raised; the General Fund impact and various fees being too high. I can't deal with that at this point in the debate, so I'd like to know if we vote this down at this point what are the consequences to our roads back home?

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

Senator **DAMON:** Thank you, Madame President. To the good Senator's question, I think that you view the consequences of voting this down every single day and you view them every single year. I believe you see them getting progressively worse. Let me underline again, our present Highway Fund model of funding our roads and bridges, let alone the other areas of transportation needs, is not suitable, is not sufficient, does not provide enough revenue to do the fixes that we need to do, not just the maintenance but the rebuilding of our infrastructure that is required. The answer to your question is the condition that you see our roads and bridges in, the condition that your constituents call you about because of the pothole in front of their house or whatever other condition, is the condition that's going to prevail. I don't mean to be a promoter of gloom and doom, but I do want to get the reality out. That's what we are doing. We're not even able to take care of maintaining what we have, let alone fixing it all. That's my answer to the good Senator's query.

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

Senator **DIAMOND:** Thank you, Madame President. I just wanted to answer the question from the good Senator from Kennebec, Senator Mitchell, as well. That's why the Department of Transportation and the Transportation Committee are doing the study this summer to find out what the percentages should be as opposed to simply impacting the General Fund on kind of a guess. That would also dictate what, if any, fees should be raised after that study. Thank you, Madame President.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I would hope that we would accept the Majority Report so that we could deal with amendments that will be coming on the bill later today. That would give us a better idea of whether we want to proceed any further.

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

Senator **GOOLEY:** Thank you, Madame President. I'd like to pose a question through the Chair. I'm fairly new to this concept of GARVEE bonds and my question is, in leveraging of federal dollars, can somebody give me an update as to the additional leveraging of federal dollars under GARVEE bonds? Thank you.

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

Senator **DAMON:** Thank you, Madame President. To the good Senator, I'm not entirely sure of the question, but I will say that the GARVEE bonds, as issued, are an instrument of Federal Government and they are available for states to use to leverage future Highway Fund dollars coming into that state so that they can get the benefit of getting a project done today, at today's cost, rather than 10 years from now or 20 years from now. The bill before you, the present bill and if we can ever get to the amended portion, would set a limit of how much of that future revenue we can use to retire those other bonds. It provides a leveraging; it's the best way that I can explain it, so that we can get projects done today.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon 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 (#180)**

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

**NAYS:** Senators: BRANNIGAN, COURTNEY, DIAMOND, HASTINGS, MILLS, NASS, PLOWMAN, ROSEN, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON

**ABSENT:** Senator: PERRY

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-308) **READ.**

On motion by Senator **DAMON** of Hancock, Senate Amendment "B" (S-339) to Committee Amendment "A" (S-308) **READ.**

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. In our earlier discussion, we found that there were some concerns with some of the funding mechanisms that are designed to fund L.D. 1790. This amendment that I'm offering changes some of those funding mechanisms so that we can at least move forward, if it's your wish. Can we at least move forward a vehicle with a modicum of funding in it so that we can address the issues that have been raised, the concerns about having a study on the appropriate level of funding for, for instance, public safety and State Police and other areas in the bill? Instead of ramping the Highway Fund level of funding for State Police from the current 60% down to 25% this amendment would move it to 50%, not in this biennium but in the next biennium. I would say that because if the result of the study this summer showed that this wasn't appropriate I would suspect that we could offer up legislation that would adjust this even further before any money was taken from the funding of the State Police.

Secondly, the areas of concern regarding the fee structure have been changed significantly, to wit, the vanity plate fee that was to go from \$15 to \$25 is now adjusted from \$15 to \$20. It was correctly noted in earlier debate by the good Senator from Lincoln, Senator Dow, that these fees have not been adjusted for 18 years. Though I couldn't do the complex calculations of the inflationary interest as the good Senator has done, I would say that that this was not a bad increase in fees in 18 years.

Another fee that was to be increased was the fee on registrations, going to \$30 from, I believe, \$20. That now has gone, in this proposed amendment, only to \$26. Those fees have been adjusted and the amount of money that is going in from the General Fund has been adjusted. The other significant adjustment is that the 1¢ that I talked about earlier from the sales

tax of vehicles and vehicle related accessories is taken out entirely by this amendment. Not that it shouldn't be there at some point, but it does have a very large fiscal impact on the General Fund and so it was thought best to take it out so we can move this bill forward. The other thing that this does is take 7.5% of the current Highway Fund money, this is not General Fund but is Highway Fund money, and moves it into a thing called Transcap, which is part of this whole structure. Transportation Capital Account, where that money can then be used as a revenue stream to, again, fund a revenue bond which would be going back into the work of our roads and our bridges.

The final piece that does stay in here is the sales tax on car rentals. That money goes into another sub-fund in this account called the Star account, Surface Transportation and Rail account, and it becomes critical, essential I might add, to the funding of the current Downeaster passenger rail Amtrak train as it loses its federal operating subsidy. This is the vehicle by which we can continue that very popular service; a service that is growing and hopefully we could expand that service to other areas of Maine. That's what the amendment does. I certainly thank you for your vote on the last roll call and I'd ask your further vote so we can move this along from this position. Thank you, ladies and gentlemen.

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. If I may, can I pose a question through the Chair?

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

Senator **COURTNEY:** Thank you, Madame President. Thank you for the good explanation. My question is, with the amendment, does this still steal the excise tax from the municipalities?

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

Senator **DAMON:** Thank you, Madame President. I couldn't catch all that. What was the question? How was it phrased? No, in fact I did catch it. Thank you very much, Senator. It does not obligate any of the excise tax money. In fact, that was a very early component of the draft as it was originally designed. That piece was taken away months ago, literally months ago. This amendment has no inclusion of any excise tax money from the municipalities. There is none at all. Thank you, Madame President.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. If I follow the discussion led by the good Senator from Hancock, Senator Damon, it would appear that in Committee Amendment "A" we were taking \$47 million from the General Fund in the out year biennium and as a result of Senate Amendment "B" to Committee Amendment "A", we would

reduce that amount down to \$23 million. It's a \$47 million problem now reduced by a little more than half. I would simply remind the Body that when we look out into fiscal year 2010 and 2011 we are faced with some pretty lean times. We've tried to recognize those lean times in the biennial budget that we passed, L.D. 499. We're trying to deal with sustainability. The expectation right now is that our revenue stream will grow by about 2% in the out biennium. With this modification we would be obligating some 20% to 25% of that money to the transportation infrastructure matters that the good Senator from Hancock, Senator Damon, has discussed. I would remind you that the remaining amount of money will then be split up among our social service programs in DHHS, our education funding for K-12, and the higher education funding that we hope to get on track as demonstrated in the good faith effort we made in L.D. 499. I think we need to be asking ourselves if we have an integrated thought here or are we dealing with disjointed bills. I want to remind you that it is all coming out of the same pocket, ultimately. I think we're not wise to be obligating ourselves to this transportation infrastructure direction without a lot more serious thought, discussion, and study. I would urge you to defeat the pending motion. Thank you very much, Madame President.

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

Senator **DOW:** Thank you, Madame President. I just want to make a small correction in the good Senator from Hancock, Senator Damon's remarks. First he said that one of the fees he thought went from \$20 to \$30 and it was going to \$26. Actually it goes from \$23 to \$26.

We've spoken about the Highway Fund as if somehow they belong to the General Fund. They do not. They are constitutionally protected. I'm going to go back to another Attorney General's opinion. This is an opinion where he is stating Section 19, Article 9, of the Maine Constitution provides that the General Highway Fund, and here's the quote, 'Shall be expended solely for specifically enumerated purposes including the expense of State enforcement of traffic laws and shall not be diverted for any purpose.' We cannot talk about dedicated Highway Funds as if they are our own and borne somewhere else unless the Legislature specifically determines that those funds can legally and constitutionally be set aside for the General Fund to pay for the State Police and for other highway departments. We cannot do it. This is one of the holes that must be plugged up, I believe, in the Highway Department. This is one of the things that has bled the Highway Department off so we have not been able to do the repairs over the years that we want to. I know we have great needs in the General Fund, but we can't take money that is constitutionally guaranteed to the Highway Fund.

I want to go back to this opinion from 1980 again, because it does have to do with the OPEGA report and it has to do with what I feel is a fair amendment. I'm going to support this amendment. It's interesting to note that the OPEGA report pegged the State Police between 17% and 34%. The average, if you average those two out, is pretty close to 25%. In 1980 the General Fund received only 25% from the Highway Department to fund the State Police in some of these other areas. The split was 75% to 25% back then, so the Legislature asked the State Auditor to perform an audit to see if that number was accurate. That audit came up with a 65% to 35% split. There was some new information, but this opinion specifically says that the State audit

is an opinion, the same as the OPEGA report is an opinion, and that information can be used by the Legislature to determine the correct percentage. It does not hold the authority of law. I believe that we have shortchanged our highway repairs over the years by continuing to borrow a higher and higher percentage because we needed it somewhere else. I think we did so illegally. I thought to myself, 'I'm going to go dig my father up from his grave; he's been in there 22 years. I'll bring him in here and let him testify, but he is testifying.'

I believe this problem can be taken care of in this bill and I believe this bill has some other good points to it because it provides a savings account that we can use to leverage monies in the future. I think that's a good business practice. I just believe we've neglected our highways too long. We talk about development and increasing our economic security in this state. To quote from my father again, 'You've got to have good roads to get the potatoes out of Aroostook County.' His vision, of course, was broader than that, but I understood the point. The commerce of the state runs on our highways. If we're going to increase our commerce we must maintain our highways. We talk about boosting the economy for Washington County. It's my opinion that this will never happen until there is an East/West highway, a substantial East/West highway running through Washington County. I know the federal government is looking at that in conjunction with Canada, to run from Halifax through the state of Maine and into New York State to move our goods and services. The St. John River Valley is another area. My uncle from Presque Isle, who was one of the three salesmen that supplied food to all of the stores in Northern Maine, the St. John River Valley was his favorite area. There is a lot of commerce up there that also needs to be protected and we need to join that valley to I-95 somehow, the North/South route. Houlton and Island Falls, somewhere that project needs to be done. It's going to require money; some of our own, most of it from the federal government for that type of situation. That's how seriously I've taken this matter. The more we expend the greater, by multiplying the amount we spend, we're going to get back in the future.

We have such a serious problem that I even testified, you're going to think this was kind of dumb, before the Highway Committee this year on the automatic increase for the gasoline tax. I testified against it. The reason I testified against it is because it's become a boondoggle to us. We've had 10% increases in inflation in the highway construction, 35% increases, this automatic increase does not allow, in my mind, the Commissioner to bring forward a budget of what we need and the ideas on how to pay for it. It straps him into a formula that sounded like a good idea a few years ago but now handcuffs this department. It isn't working and we've got to come up with some new and creative sources of funding. I just don't believe that selling some of our highways to private industries is the way to do it. We can't put toll roads or toll gates on Route 1. I believe this bill has some foresight in it to look into some ways for some future revenue sources to help with the highway construction in this state. I believe that should be one of our number one priorities. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. I want to compliment the good Senator from Lincoln, Senator Dow, for his very thoughtful and incisive comments. I really appreciate them.

I rise primarily to clarify, for the record, that the question I asked earlier about municipalities, which was answered by both the Senator from Hancock, Senator Damon, and the Senator from Cumberland, Senator Turner, related to the excise tax issue. It was, in effect, the same question raised by the good Senator from York, Senator Courtney, albeit somewhat delicately worded.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I always enjoy revisiting history as we are somehow perpetually raiding the Highway Fund through the General Fund. The reality is more often than not the General Fund has bailed out the Highway Fund. When those monies have gone back the other way it isn't a raid, it's a payback. I resent the comments that say we are somehow violating Maine's Constitution by raiding the Highway Fund when in reality they are paying back money that was given to them by the General Fund when things were a little tight and we bailed them out. Thank you very much.

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

Senator **GOOLEY:** Thank you, Madame President and ladies and gentlemen of the Senate. I wasn't going to get up again on this issue. I would just like to say that the Department of Transportation put on about 20 meetings statewide over the last couple of months. I happened to go to one over in Mexico. They threw out a whole bunch of statistics about the needs going out about 20 years. The shortfall, or the projected need, was, as I recall, in the billions of dollars. I think it was \$10 billion. It was a big number. They talked about the increasing cost of petroleum products, which roads use in a large volume, and the cost of petroleum products is going up dramatically and they are going to continue to go up. We have a big shortfall.

I am a supporter of good roads. We all come down here to Augusta to meet and we like to drive on our smooth roads, our good roads. I live in rural Maine. Many of us live in rural Maine. The problem of severe weather really deteriorates our roads rather rapidly. We have a big need for a large DOT budget. I am a supporter of this amendment, which is coming up for a vote, especially for rural Maine. We do like our smooth roads and they are really our only mode of transportation in rural Maine. I've always been willing to go the extra mile for our road system here in Maine. Thank you very much.

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

Senator **SCHNEIDER:** Thank you, Madame President, ladies and gentlemen of the Senate. I didn't anticipate speaking but I'm very torn on this issue. I'm very concerned about the General Fund, however I think the good Senator from Hancock, Senator Damon, has made a very strong argument and is pushing me in favor of this piece of legislation in the sense that if we don't do something now, if we continue to delay, we will certainly cost ourselves far more money. Perhaps if we had done this earlier, years ago, we might not be in the situation with our roads that we are in today. Certainly if you travel around, talking with local citizens, there are few things that annoy them more than the poor

condition of our roads. Even though reluctantly, I am in favor of this. One of the concerns that I had was the exportability of this particular piece of legislation. I'm hopeful that maybe we will continue even after passing this to work on that particular issue. I am going to support this piece of legislation because I think we need to step up and we need to take action. We're always pushing things out further. When we don't take care of our infrastructure, ultimately what that does is create a far bigger price tag in the future. I can only speak to the buildings' needs and the roads in our State House complex and in our universities, but all over our districts we will see that this will ultimately, if we do not do something now, cost us far more. I am, with reluctance, supporting this and hope that you will also. Thank you.

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

Senator **BRANNIGAN:** Thank you, Madame President. I am very concerned that there is little talk here about the General Fund and what the General Fund does. I appreciate the Senator from Cumberland, Senator Turner, speaking up but it seem as though no one else really wants to speak up. He's right; we never robbed or raided the Highway Fund. We worked together. Someone used the term recently 'starved the beast'. One of the reasons the Highway Fund has not been able to do its duty is because of the fight over the years of raising some revenue for it. Raising the gas tax. Indexing the gas tax. Not allowing bonds to be put out on a regular basis. I'm really afraid about what we are doing here. The Highway Fund certainly needs to be shorn up, the highways need to be repaired, but why is it going to be taken from the General Fund, which has been mostly going to schools, K-12? Naturally I'm concerned about taking away from the elderly and the poor. There is a bit of starving the beast here. I am really concerned. First we got a presentation by the Transportation Committee chair. It was excellent. He's right. We're doing a good thing that needs to be done, but it wasn't what was going to survive and so he changed it. He moved the pieces around. I understand that. I am certain that this is a beginning of a move that we are not ready for. It is not time to be raising fees while we're still dealing with the tax issue. It is not the time to be doing this until it is well thought out and until we can say that the General Fund will be whole, just as we tried to make the Highway Fund whole. I'm serious about that. I'm concerned.

When I was in the House I was taught by one of the fellows here that you always say, and he insisted we say, the name of the Representative and the town they were from. When I came to the Senate years ago, we did the same thing only with the county. All of a sudden this issue of the 'good Senator' is creeping in here to a point where we're all just saying everybody's good. Some are good, some are better than others, but I'm just concerned about this little bit of etiquette which we kind of fall down on. Always the 'good Senator'. I hope we will get back to the way of etiquette that we were taught by the person from the House. Thank you very much.

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

Senator **ROTUNDO:** Thank you, Madame President, men and women of the Senate. I thank the good Senators from Cumberland, Senator Brannigan and Senator Turner, for drawing

everyone's attention to the impact of this on the General Fund. I am very concerned. My understanding, and I guess I was incorrect, was that this amendment would not have an impact on the General Fund. Clearly it does. I'm sitting here thinking about all the things that my good colleagues in this Chamber have lobbied me on with regards to appropriations over the past months as we search very hard for additional money for higher education, for corrections, for healthcare, for our parks. I think about the things on the table now that many of you want that we can't afford. This is going to make things worse. Much worse. I'm certainly very sympathetic to the fact that we need to be attending to our infrastructure. We're going to have to figure out how we're going to do that without taking those funds away from other critically important pieces that we need for the long-term future of this state. I would ask you to think about the other things that are so important to you and your communities and vote against the pending motion. Thank you.

On motion by Senator **RAYE** of Washington, 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 Hancock, Senator Damon to Adopt Senate Amendment "B" (S-339) to Committee Amendment "A" (S-308). 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 (#181)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BROMLEY, BRYANT, DAMON, DOW, GOOLEY, HASTINGS, MARTIN, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, RAYE, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

NAYS: Senators: BRANNIGAN, COURTNEY, DIAMOND, HOBBS, MARRACHE, NASS, PLOWMAN, ROSEN, ROTUNDO, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **DAMON** of Hancock to **ADOPT** Senate Amendment "B" (S-339) to Committee Amendment "A" (S-308), **PREVAILED**.

On motion by Senator **TURNER** of Cumberland, Senate Amendment "A" (S-323) to Committee Amendment "A" (S-308) **READ**.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I know this isn't something you have not heard about in the last few days, but this amendment, which failed on L.D. 781, would send the GARVEE bond out to the

voters for their ratification in November 2007. I would like another bite of the apple and I would appreciate your consideration of the motion.

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 Lincoln, Senator Dow.

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

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

Senator **DOW:** Thank you, Madame President. I haven't had time to look this up on my computer. I'd like to know what this amendment does.

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

Senator **TURNER:** Thank you, Madame President. As I indicated earlier, it would send the GARVEE bond out to the voters in November of this year for their ratification. The bond is for \$50 million. If the good Senator from Lincoln, Senator Dow, would like to have a copy of this I can provide it to him.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Turner to Adopt Senate Amendment "A" (S-323) to Committee Amendment "A" (S-308). 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 (#182)

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

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

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **TURNER** of Cumberland to **ADOPT** Senate Amendment "A" (S-323) to Committee Amendment "A" (S-308), **FAILED**.

Committee Amendment "A" (S-308) as Amended by Senate Amendment "B" (S-339) thereto, **ADOPTED**.

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

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

Senator **ROSEN:** Thank you, Madame President. I am asking about the fiscal note as related to the bill and its amendments.

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

Senator **ROSEN:** Thank you, Madame President. My question is this; in reading the fiscal note of the successfully attached amendment and the bill itself, there is a negative impact in this current biennium on the Highway Fund. It is my assumption that this bill goes to the Highway Table and will then be dealt with at the table. The negative impact is the diversion of revenue that is pulled out of the Highway Fund in this next biennium. General Fund impact is projected out in 2010 - 2011. Highway Fund impact in this current biennium. Is it the expectation then that those funds will, in fact, be drawn out of the Highway Fund in this next biennium or is it the reality that this will be delayed and won't go forward and the only thing that will be left in the bill at the end of the day will be the fee increases?

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

Senator **DAMON:** Thank you, Madame President. To my colleague, the good Senator from Hancock, Senator Rosen, it is my understanding that when this goes to the table it will be the General Fund Table. With all of the expected likelihood that there is no money from the General Fund to go into this, though there isn't any requested in this biennium, the only other sources of revenue that would be able to fuel this vehicle, the vehicle of L.D. 1790, would be the diversion of funds from the Highway Fund, the 7.5% which go into the Transcap account, and any fee increases. That is my understanding.

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

Senator **DIAMOND:** Thank you, Madame President, men and women of the Senate. I think the Senator from Hancock is correct. That is exactly what I think it's going to be. We're simply passing fee increases with this. That, plus all the other reasons we've talked about and all the things we've learned this afternoon about the impact on the General Fund. I would respond to the good Senator from Lincoln, Senator Dow, that right now the formula is 60% - 40%. That was established and is established. This would impact the General Fund by an extra 10%. On this particular biennium, what we are talking about is strictly those fee increases, as I understand it.

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

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

Senator **BRANNIGAN:** Thank you, Madame President. I guess I don't quite understand those last discussions, but all we're doing here is passing a fee increase? I pose that question.

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

Senator **TURNER:** Thank you, Madame President. That is correct. We are passing a fee increase.

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

Senator **DAMON:** Thank you, Madame President, ladies and gentlemen of the Senate. I beg to differ with that last assessment. Though it is true that, if this passes, there will be those fee increases. There will also be the shift from that 7.5% from the Highway Fund budget into this particular vehicle. That's important because that money goes in to now start the process moving forward. It is vitally important that this move forward. There are fee increases in this as it is before us. Whether or not it comes back from the other Body with those same fee increases is yet to be determined. I would urge your continued support. We've taken it this far. Thank you, Madame President.

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

Senator **BRANNIGAN:** Thank you, Madame President. The money that is going to be transferred into this new account is still all Highway Fund related? Am I right on that? Would somebody at least assure me that we're raising fees to begin to feed the needs of the Highway Fund.

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

Senator **DAMON:** Thank you, Madame President. Once again, I want to be absolutely certain and clear on this. We are, as it is proposed, raising those fees that haven't been raised in 18 years. I've gone through the details on that. We are transferring 7.5% from the Highway Fund budget into the Transcap account. There is also before us, and we have voted on, that there would be an impact on the General Fund in the next biennium. Not in this biennium. We've already discussed and debated whether or not that is going to be problematic. We may have to make some adjustments to that. In this proposal, the part that is before us right now, it is a fee increase on licenses, titles, and registrations and it is a transfer from the Highway Fund budget, not the General Fund budget, of 7.5% into the Transcap account. I hope that helps.

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

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

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

Senator **WESTON:** Thank you, Madame President. With the transfer of the money from the Highway Fund, I would like to know if that delays or has an impact on the work plan?

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

Senator **DAMON:** Thank you, Madame President. Thank you to the Senator from Waldo, Senator Weston. It is my understanding that the work plan has already been established and it already is to be funded through a combination of the Highway Fund monies, the bond monies, and perhaps the GARVEE monies. That work plan is not negatively impacted by this transfer of 7.5% but, in fact, is seen to be enhanced because of the revenue aspect and the leveraging of those dollars to go back into projects on the highway and bridge side. It's a diversionary move that would provide us greater bang for the buck than we presently have.

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

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

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

Senator **SCHNEIDER:** Thank you, Madame President. If we don't do this, has there been any projection of the additional cost that it will cost the State if we don't move and take action on these. Are there any outward projects of the cost in delaying these projects?

**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 Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. The actual numbers are not available to me at this time. The only thing that I can say in response to that is that in the last biennium we saw construction costs, the cost of doing business, increase by 35%. The good Senator from Franklin, Senator Gooley, talked about the petroleum costs adding to those costs because of the putaminous concrete and the fact that it takes petroleum to make that. What he failed to mention was the rapidly escalating costs of steel and concrete worldwide. These are escalations that we have no control over but yet the cost of doing business escalated by 35%. That's the inflationary factor of construction. That was the rate two years ago, but in the last year we saw those same costs escalate at 15%. It is vastly out stripping our ability to pay for those projects and so to defer this further, I can only surmise by that history, is going to be much more expensive.

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

Senator **GOOLEY:** Thank you, Madame President. I just wanted to add something also to the good Senator from Hancock, Senator Damon's remarks. With the lack of monies for these projects, engineering goes into the projects and if the projects are not funded the engineering gets shelved and eventually becomes obsolete. There is a big waste of monies there from obsolete engineering. Thank you.

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

Senator **DOW:** Thank you, Madame President. If the figures from the good Senator from Hancock, Senator Damon, are correct, 35% increase in one year and then 15% the next year, that's a 55% increase in two years. That's why the Highway Department is in crisis. If you have a 15% increase on top of a 35% increase, you can't add them up, you have to mathematically calculate it in a slightly different way. That's what it amounts to. That's why there is the crisis. That's why I'm so adamant for this bill. 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 (#183)

**YEAS:** Senators: BARTLETT, BENOIT, BOWMAN, BROMLEY, BRYANT, DAMON, DOW, GOOLEY, HOBBS, MARTIN, MCCORMICK, MITCHELL, NUTTING, PERRY, RAYE, SAVAGE, SCHNEIDER, STRIMLING, SULLIVAN

**NAYS:** Senators: BRANNIGAN, COURTNEY, DIAMOND, HASTINGS, MARRACHE, MILLS, NASS, PLOWMAN, ROSEN, ROTUNDO, SHERMAN, SMITH, SNOWE-MELLO, TURNER, WESTON, THE PRESIDENT - BETH G. EDMONDS

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308) AS AMENDED BY SENATE AMENDMENT "B" (S-339)** thereto.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Provide Adult Adoptees Access to Their Original Birth Certificates"

H.P. 802 L.D. 1084

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-601)** (6 members)

Tabled - June 19, 2007, by Senator **HOBBS** of York

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

(In House, June 18, 2007, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)**.)

(In Senate, June 19, 2007, Reports **READ**.)

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

Senator **BEAUCHEMIN:** Thank you, Madame President and members of the Senate. I rise today to ask you to vote against the pending motion. I'd like to start by thanking each of the Senators here that has taken time to read my testimony that I presented before the Judiciary Committee and who has taken time to listen to my reasons for supporting the Minority Report, Ought to Pass. I'd like to start with the timeline that's involved here. From 1953 to 1989, it's 36 years that we are talking about. 2007 minus the 18 is 1989, for anyone doing the math. This bill is only for adult adoptees. The average age for a birth mother in the 50's, 60's, and 70's was approximately 16 years old. I say 50's through 70's because in the 80's open adoption became a choice and the majority of those records are now open. My case is a little different. My adoptive Mom, who I refer to at all times as Mom, was paying attention when she adopted me and remembers a few details that were being discussed at the time of adoption. She said my birth mother was a woman going through menopause and found herself pregnant. That would put her at approximately 48 to 50 years old. Ladies and gentlemen of the Senate, I've gone through menopause and I can tell you my first choice would be which side of that Carlton Bridge I'm going to jump off. Given her age at the time of birth, and my age of 52 now, that puts her at approximately 100 years old or deceased.

We're talking about the 50's through 70's. Many of you in this Chamber has experienced those years and participated in activities that you are proud of and activities that you are not so proud of. A teenage girl in the 50's through 70's, finding herself pregnant, was automatically in the category of not so proud. Since this bill was written I have done some research and have been contacted by many birth mothers, adoptees, and birth parents. I'd like to share some of the letters and e-mails written by birth mothers in the 50's and 60's to give you an idea of where they were mentally and emotionally. I have chosen three letters and only a couple of paragraphs from each. I feel it's important to bring their voices to the Chamber since we have an adoptee and three adoptive parents here in the Senate. I quote, 'Any conversation I had with the social worker before giving birth was basically trying to help me understand why I couldn't keep my son. I had to go to District Court, sign the papers. The judge was not friendly. He was very businesslike. He put the papers in front of me and I just kind of stood there. Finally I said, 'What happens if I don't sign?' He got angry with me and said that I'd already cost the poor honest hard-working taxpayers enough time and

trouble and if I didn't sign the papers he would declare me incompetent and how would I like my son to know that about me.' I quote, 'I was so scared. I wanted so badly for my parents to say, 'You are staying with us. You're our little girl.' I had this persona of a hippy but I just wanted to be with my family. We drove to the maternity home in Biddeford. My mother and father were heartbroken. I was told on the way that I was supposed to be in Old Orchard Beach working in a hotel as a chambermaid, so while I was at the home I had better get a tan, thus continuing the cover up. I walked in and there were many pregnant girls and the nuns. Some of the nuns were harsh with us, for we had committed a sin. It's not like it is today, where you go through therapy and counseling. No, there was no counseling. We were there to have our babies. Period. When my parents turned around and walked out the door I felt abandoned. I felt alone. I didn't understand.' Quote, 'I was told don't think about it. Don't get attached. Don't dwell on it. Don't feel sorry for yourself. You did this to yourself. Every day since the birth I have been aware that there is a baby, now a grown man, out there somewhere. He is trapped in my mind as a baby because that is what I saw when I last saw him. I can't tell you how many times my son, my next son, would have hit a first. His first tooth. His first time riding his bike. First anything. In my mind, I would go back to my first son. What were his firsts? Is he happy? Did I do the right thing? I've spent 34 years thinking if I had a choice would I have done it differently. I've wanted to give him a mother and a father and all the things that normal kids have. Would I have done it differently? I don't know. I have tried to suppress the experience but it never goes away. There is not a day since I was 15 that I haven't thought about him. Criminals get a life sentence with at least a chance at parole. I will never have total peace. My two sons from my marriage are my world, my everything, and they know of the adoption and have often said, 'Mom, don't be surprised if someone comes knocking on your door someday.' I always answer, 'He is welcome in my home and in my heart, just as you boys are.'

Ladies and gentlemen of the Senate, closed adoption never was about protecting the birth mother. It is as if we keep saying, with a tone of truth and conviction, it's snowing outside. Even though we know that it's 75 degrees outside, if we hear it's snowing outside enough one of us in this chamber is going to get up and look out that window for snow. We have been told for so many years that the birth mothers do not want to be found and that they were promised privacy, but the fact is that the majority were not. They were told to stay away for the sake of the baby and the adoptive family unit. The hospitals would sometimes even put announcements in the newspapers with the birth mother and baby's names so that the father could sign a surrendering paper and would know that baby was being given up for adoption. This doesn't sound like privacy to me.

I have many friends who have adopted children from other countries and other states. All have had open adoptions and stay in contact with the birth parents to some degree for the sake of the child's identity. They are the Mom and Dad and nothing can change that fact, but they are also not the birth mother and father and nothing can change that fact. I personally know the feeling because I married a man 32 years ago who had full custody of his two daughters, who were 3 and 5 at the time. I brought them up and did everything a mother could do for them throughout their lives and I did it gladly. I often say I fell in love with Bethany and Betsy long before I ever fell in love with their father. I was in the labor room with both of my younger daughter's children, now 7

and 5. When Rosalee and Lulu call me Meme I know they love me unconditionally. I simply answer, 'Whatever you want, love dove.' I couldn't love them more if I tried but a simple fact can never be changed. They are my stepdaughter's children and that makes me their step-grandmother. No matter how I dress it up, those facts are facts. I will always be Bethany and Betsy's Mom and I will always be Rosalee and Lulu's Meme and they will always be my love doves in my heart where it counts.

I share this with you to let you know that I understand the fear of a birth mother coming back into the picture of happiness when she's perhaps not wanted or needed by the parents. My oldest, Bethany, needed to know her birth mother. At 18 years old she left home and to live with her mother. While my pride as a Mom was devastated, I knew exactly what she was aching for. It was the feeling of not being complete, even though to look at our family unit you would think we were the picture of happiness. I will always be Bethany's Mom, but she needed to know her mother. The facts are the facts. Thank goodness I was adopted and could understand and let her go without guilt. She was not leaving me, she was finding herself.

I e-mailed a copy of my testimony and L.D. 1084 down to my son in Florida. Some of you have heard me tell this story before. He's my only birth child. He e-mailed a message back to me. It said, 'Mom, I'm really happy for you and I hope the bill passes, but I'm more happy for me.' I called him on his cell phone. 'Ben, what does that mean?' He said, 'Mom, you are so crazy about Nana and Grampy that I never wanted to bring it up because I always figured when Nana and Grampy died you would be looking for your natural parents. You opened the door. You sent that to me.' He said, 'I love you. I love Nana and Grampy and they are always going to be Nana and Grampy, but I've wondered who I am since the day you told me you were adopted when I was doing my family tree for Mrs. Cooper's second grade.' That's just another generation that will carry the burden of secrets and shame created by closed adoptions.

I urge you to support the Minority Report to pass this and defeat the pending motion, to put an end to these secrets and shame. Even if L.D. 1084 passes, the records will not be opened until 2009. My mother will be over 100 and most likely deceased. That's really too bad because I will not be able to put my arms around her and thank her for choosing adoption. If I could answer the one question I am positive all birth mothers would love to have a chance to ask their surrendered child, 'Can you forgive me?', I would simply answer, 'There is nothing to forgive, I never held it against you.' Ladies and gentlemen of the Senate, we are at a turning point in our entire culture. We accept things we never thought we would accept before. We work so hard to live our lives without prejudice, towards equality, and we make firm commitments to live by these rules. It is time. We've done studies. We've researched. We've discussed. It is time to move forward with this. I strongly urge you to defeat the pending motion and support the Minority Report, Ought to Pass. Thank you very much for your time.

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

Senator **MARRACHÉ:** Thank you, Madame President, men and women of the Senate. I rise to speak in favor of the pending motion, the Majority Ought Not to Pass. I rise because I have a philosophical belief that when people are given a choice to chose life, do so with the expressed consent that this is going to be kept

confidential, and then make that decision knowing that this will stay in place but find out 50 or more years later that somebody has overturned it, I think, is just wrong. I wanted to tell you a story about a patient of mine who did make that choice. She had a child out of wedlock and chose to give it up for adoption. When this bill came up last session she was right into my office having really big problems dealing with this. She was terrified that her husband and her other children she had with her husband might somehow find out that she had a child prior because she never told them that. She did not want them to think that she would lie to them. This was some chapter in her life that she never wanted to open again and read. It went away once we defeated the bill but now it's back again. There she is again, dealing with the same issue. There are real people out there that we have to also consider. It's not just the children, but also the mothers. You should never penalize someone who's made a choice for the benefit of another and to have them have to pay dearly for it. Keep that in mind. That was a different time in the world. That was when shame did lead people and secrecy did occur, but that is not something we should be opening up at this point and making it raw again. Thank you.

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

Senator **HASTINGS:** Thank you, Madame President and ladies and gentlemen of the Senate. The Judiciary Committee has struggled with this issue now for two years. It's been one of the most difficult issues that has come before the committee in my tenure. I first want to compliment the Senator from Sagadahoc, Senator Benoit, for the manner in which she brought the debate to the committee this session. Many of you may have heard that it was a very emotional issue. There is just no way of avoiding that. Emotions run high. In our prior dealing with this bill, sometimes they got a bit out of control. The Senator from Sagadahoc, Senator Benoit, has brought the tone of this debate to the committee and to this Body to the level it should be at. Yes, it's full of emotions. You can see that from the Senator. She speaks from the heart. It means so much to her. We have debated, I think, in the proper manner.

I am in support of the pending motion and I want to give you a little explanation. It certainly is not a partisan issue. If you look at the report you'll never figure out why anybody voted as they did, but it certainly has nothing to do with a D or an R after their name. It's a matter of personal conviction.

Since 1953 the law in Maine has been that the probate court shall keep records of adoptions segregated from all other court records and those records are confidential. The law goes on to say that if a judge of probate court determines the examination of records pertaining to a particular adoption is proper, the judge may authorize the examination. It is a very vague standard. All adoption records since 1953 are first and foremost confidential unless a judge of probate, for reasons he or she determines proper, opens those records. We understand from the testimony that the standard among various judges has differed. We have one of those former judges with us today. Different courts have used different standards. Many have allowed, most I think will make an investigation for medical reasons, and some not so openly for other reasons. The real issue before us then is if there are competing issues that we must balance. The Senator from Sagadahoc, Senator Benoit, has very forcefully given the position of the adopted child. We had testimony from many birth mothers



who testified that this reunification with their child was just a wonderful event and how much it meant to them. I continue to believe there are a percentage of birth mothers, especially from the 50's and 60's, who were not represented at the hearings; women who do not want the records opened. They were promised confidentiality. We cannot say they were not promised that when the word is in the statute.

The question is; do these birth mothers have an interest to be protected? I think probably, from the evidence, that in most cases they do want reunification, but there remains a percentage, be it 5%, 10%, or 15%, of birth mothers from the 50's and 60's. We can all recognize that societal values have changed dramatically since the 50's and 60's. In fact, I would have no problem whatsoever prospectively to making these records open. If we ever get to that point, you will find something on your desk that may do that. That's not before us right now. The question is; do we retroactively renounce or go back on the promise made to certain birth mothers or to all birth mothers over the last 50 years?

We had testimony from clerks of probate courts who have been asked by probate judges to contact birth mothers. This is a technique often used by the probate judges, who will contact the birth mother for you and see if they want to be contacted and if they want to be reunified. While in many cases they were very welcoming to this, there were a number of cases where we heard from the registrar where the mother was just totally taken aback and wanted nothing to do with this. They were adamant that no, they did not want contact. Although the cases were not many, you have to think about those situations. What about rape? What about incest? These are situations that did and have existed. How do we do it and do we protect the interests of those birth mothers who do not wish to be contacted? Unfortunately, as I think we saw by another bill that we passed, there does not seem to be a way to compromise on this. It's yes or no. The proposed bill will allow every person, upon their 18<sup>th</sup> birthday, to obtain a copy of their birth certificate. There will be a statement on that birth certificate, or there may be a statement on that birth certificate, from the birth mother saying, 'I do want to be contacted' or 'Do not contact me'. You have to understand that this is still advisory only because it is handed to the child with the copy of the birth certificate. That leaves it to the conscience of the child.

Ladies and gentlemen, I think we could debate this around and around for another 40 hours. I don't know if anybody's mind is going to be changed. I think we found most people came to their conclusion. The issue then is do birth mothers have an interest. The issue of adoptive parents was never really taken up by the committee. We didn't consider that to be part of the legal argument here. No promises were made to them, that I'm aware of. The promise that this motion is intending to protect is the promise made to the birth mother of confidentiality. Ladies and gentlemen, I respectfully suggest that you support the pending motion to protect that interest. Thank you.

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

Senator **BRANNIGAN:** Thank you, Madame President. I am one of those that has a son who was adopted. I've had an interest. I was part of the study, as I said yesterday. I'd just like to clarify a couple of things. First of all, a lot of people have talked about the child. This isn't going to be about a child. This is going to be about a young adult, 18 or older, who is dealing with this issue.

It's not some kid who's running around with a birth certificate. It will, we assume, be an adult. There is no doubt that this is a balance. I'd also like to point out, I think the birth parents, as did the birth mother, in the old days were under the impression that this was a secret and would be that way. They would never have their kid finding his birth parents. There is a lot of talk here about the 60's and 70's, but the people who would promote open records from now on are not talking about the 80's and 90's. They are talking about from now on, which is much later. I don't think there has been an offer for a compromise there. I come down on the side of the kids, the children who have been wondering. When they get to be adults, you have to weigh the mother who never told her husband and her children what happened, the child who is now an adult and wants to know who he is or who she is, what their background is. It's just weighing those out. I say let's go for the child, the adult child. That's the side I wish you would come down on. Who has been the most victimized? Who has been the person? It's got to be one or the other. Who is the person who is longing most? Who is the person who is in the greatest need? I hope you will defeat the pending motion and allow us to pass this bill. Thank you.

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

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

Senator **HOBBS:** Thank you very much, Madame President, men and women of the Senate. First of all I want to thank the young lady from Sagadahoc, my colleague, Senator Benoit, for bringing this discussion to a mature level and away from a rancor situation that occurred a couple of years ago. I'll forever be grateful that whatever happens on this bill that it was done with dignity and respect. I also want to thank the good Senator from Oxford who has had to put up with literally scores and scores of hours and hundreds of e-mails and some pretty derogatory information in the past. Not so much this year because this year was a much better debate and the decorum was much better.

I think the issue boils down to whether or not, as a matter of public policy, the Maine Legislature wants to change what has been known as the adoption triad and remove from the discussion, or from the input of individuals, the birth parents and the adoptive couple. In most cases it's the birth mother we're talking about, but in some cases there are couples that do surrender their children. Little did I know that I would be standing here on the floor of this Body on the other side of an issue from my good friend of many years. In fact when my wife, Donna, and I were going through infertility, the good Senator from Cumberland, Senator Brannigan and his wife, Clair, were extremely sensitive and helpful, helping us to come to a decision that adoption was the way we wanted to begin our family. At that time it looked like that was the only opportunity to a parent, from a legal standpoint.

The issue we're talking about is one that I wish we didn't have to talk about. It's a matter of retroactivity. It's a matter of changing the rules and breaching confidentiality and what, in fact, as the good Senator from Oxford stated in the law is the law regarding confidentiality of adoption records. Policy makers, adoption professionals, and the public should recognize that there are many number of legitimate and understandable reasons why

birth mothers and birth parents desire to keep their adoption private, sometimes not even to tell their own parents that they were pregnant. Perhaps the birth parent does not want to upset his or her spouse, family, or friends. Maybe they never shared the revelation or that the birth parent is psychologically or emotionally unable or unready to handle the stress of renewed contact. Perhaps the birth mother may be interested in contact some day, but at that particular point felt comfort in her decision not to take another option because the issue was going to be one of privacy. I believe that, unfortunately, this bill will retroactively open up adoption records for those individuals from 1953 until the date of January 1, 2009, if the bill were to pass or if the bill was to be made prospective, as an option. The idea of one size fits all regarding a mandatory openness policy retroactively I think tips the balance away from what the intended purpose was at the time. I've tried to put the emotion aside and anyone who has been involved in the adoption triad, as many members of this Body has, knows the joys and tribulations of being a parent, but also know the responsibilities and the uniqueness of the relationship between adoptee and birth mother and adopted parents. It's a unique triad. It's one that I hope will continue in a balanced fashion. Thank you.

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

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

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

Senator **DOW:** Thank you, Madame President. It is a question I haven't had a chance to get answered. I've heard it spoken on several times and it's on the green sheet in front of us. It says that states that have opened access to original birth certificates have seen an increase up to 20% in adoptions. I'm trying to figure out what the connection is. If someone could explain that to me.

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

Senator **BEHOIT:** Thank you, Madame President. The increase of 20% is what has been estimated in increases in adoption since closed birth certificates were opened. Many of the states that currently do not have closed adoption records, by closed I mean birth mother doesn't know who the adoptive parent is and often times the adoptive parent doesn't know who the birth mother is, those states all have a higher percentage of adoptions over abortions. It's put on this paper because it's an important fact to know. When the adoption records are opened, the secrecy goes away. The shame goes away and the fear that goes with it goes away. It's been proven time and time again. There should be no shame in choosing adoption as an option.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I participated on the edges with this

issue when we debated it last session. As a member of the Judiciary Committee I found myself much more, as a committee member, focused more intensely on this issue. It's a very emotional subject. I want to compliment the good Senator from Sagadahoc, Senator Benoit, in keeping this debate very professional. I also want to compliment the good chair of the committee for running the committee and our work sessions on this very professionally. However, after much thought and viewing a lot of e-mails, like I am sure a lot of you got, I've decided that I can't support the pending motion. I am supporting the Minority Ought to Pass Report. If you were adopted on August 7, 1953 then that is closed. If you were adopted August 6, 1953 then it is open. To me, there is no good reason for that, as I thought about it. No good reason at all. We've heard that someone said that there had been no effort to compromise. I don't agree with that. When I reviewed this year's bill, L.D. 1084, it was different from the bill that was presented last session. If you review the Committee Amendment, which is the Minority Report, in committee the bill was yet again amended even further. I believe that compromise has been made. If you look at page 3 of L.D. 1084, about the contact preference form, it is an A, B, or C. A is I would like to be contacted. B is I would prefer to be contacted only through an intermediary. In the bill, as originally presented, C read I would prefer not to be contacted. Those on the Minority Report felt C was not quite strong enough. That was changed for C to read do not contact me. Kind of a blunt statement, but it should be the birth mother's right to chose an A, B, or C.

We've heard time and time again, and I'm kind of referring now to item number 5 on the green sheet that is on your desk which was distributed under my name, at the public hearing, at the work sessions, and again this afternoon that these birth mothers were promised confidentiality. I've heard that dozens of times. If you look at the statute passed in 1959, Title 22, Section 2765, 1 sub A, it says that the certificate of adoption is not going to be altered if the adopting parents or the adopted person objects to it being altered. Birth mothers may have been told and may have been promised confidentiality, but that's not what the statute reads. The statute reads that the adopting parents or the adopted person has the right to not have the certificate altered. In fact, since 1959, bullet number 5 on the green sheet, Maine statute allows the original birth certificate to be unsealed at any time by a judge of probate. Yet that's another reason I'm supporting the Minority Ought to Pass Report. We've heard testimony and gotten e-mails that some probate judges in some counties would and other counties wouldn't. Some probate judges in one particular county wouldn't one year but would another year. It's totally a very inconsistent situation we have now; where it depends upon who happens to be the probate judge and which county you happen to be in. To me that just is not a fair situation.

Yes, I think this is a very gut wrenching issue. I do believe compromise has occurred. I do believe that people, when they were promised confidentiality, it was not an accurate statement. I believe that the birth mother, through the A, B, and C preference or choice, has the ability to communicate to someone searching their very clear, and frankly blunt, intentions. I'm supporting the Minority Ought to Pass Report and I will be opposing the current motion. Thank you.

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

Senator **SHERMAN**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise in part because I have a seatmate who I have great sympathy for. I also rise because I was on the Judiciary Committee last time this matter came up. I appreciate the calmness of this debate. It was simple for me last time. It's simple for me this time. I think those birth certificates belong to the individual. Their name may be on there. I think this is a link to their past. I think is a human right. I think this is a civil right that overrides most other rights that we are talking about. I understand the legal arguments, maybe I do and maybe I don't, but I think I do. I think this is a child, an adult, that wants to know where they came from. Look at genealogy. You can go on-line now. People are striving to find those places in Europe where they came from or where they came from in this world. That's a drive, I think, that is in us as a human being. Apparently it kept the human race going and we'll still be here for a while longer. The genealogy piece strikes me because you can now find DNA. If you want to know where you came from in general, you can get DNA tests that will show if you came from Western Europe or maybe the Ukraine. We're part of the human flood, if you will. I have a science degree. We've been on this earth probably three million years, look at little Lucy over there in Africa. That's the human flood that we are. One hundred thousand years ago we almost died out on this planet. I think when you are denying someone the ability to see where they came from, it's not only a mother, it's a grandparent, it's that whole branch that you are connected with, and also it's a forward thinking thing. When my children and grandchildren walk out the door I hope they have pleasant thoughts of me and I think you are denying those thoughts to an individual because of a piece of paper that says, 'Sorry, you cannot look back beyond whatever year it might be.' I would simply say this is a human right. It's a civil right. People deserve to know where they came from. Thank you.

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

Senator **DAMON**: Thank you, Madame President, ladies and gentlemen of the Senate. Seldom have I learned more about an issue in my service here in the Senate than I have about this particular issue as it's come before us and as I have listened to the debate. Perhaps there is no easy answer for some of us, but as I've tried to internalize this and tried to put myself in the position of an adopted child, I keep thinking daily about who I am and how I have become who I am. I can trace that, not all the way back, to my mother and my father and can now research some about my grandparents. I find that I'm informed and formed by them as well. It's surprising to me. Whether I look at my hands and see my father's hands or look at my heart and feel my mother's heart. I couldn't imagine what it would be like for me not to know who they were, how I was begot, and how I became. I would be living in a void now that would last my entire life. The respect that I have for the birth mother and what she must have gone through millions of times over to have to give up her child, I can't comprehend. What I can comprehend is the loneliness that I would feel if I couldn't connect back to my mother and my father and my grandparents in Deer Isle and Penobscot and wherever else they put roots. I'm going to have to oppose the pending motion and support the Minority Report because I feel that strongly that we have a right to know who we are if we can find that out. Thank you.

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

Senator **SMITH**: Thank you, Madame President and members of the Senate. For 27 years I've served as a judge of probate and handled thousands of adoptions; early thousands, I wouldn't want you to think 10,000 or 20,000. I've handled hundreds of thousands, probably, guardianships, which are even more frequent these days, involving the care of young children. Quite a few of these are requests by individuals who have been adopted to open the records for various reasons. I just thought I would tell you that I think things have changed quite a bit over the years that I did that. Earlier there was not the awareness by the judges of the deep feelings and the sort of psychological effect that much of this has had on the various parties involved or interested in these adoptions. The reason, I think, why there has been noted some different treatment from county to county and from year to year is that the judges, as well as the general public, have learned about many of these things that have been spoken of here today. Judges, as far as I know, almost uniformly, if medical reasons were at the root of the request, would routinely open records in order to assist in resolving a medical emergency or medical problem where those records would be of assistance. Quite often, frankly, many of the older files that were opened were of no assistance whatsoever. There's so very little information in many of the older records that have been alluded to here today. There is very little information in them. There is very little information collected at any time during those earlier probate adoption processes.

I will say that adoptions are some of the most joyous occasions that a probate judge has come before him. I got right into it, to tell you the truth. There was almost always a party. The families were almost always in high spirits coming through the door. Many of them had been through a very long process. Some of them had to wait out for terminations, through very difficult circumstances, for termination of parental rights; waiting for the proper moment for the petition for adoption to come forward. The circumstances of these adoptions are very great. Almost every one of them seemed to have some unusual uniqueness to them. They are not all the same variety. They come at you from very different perspectives and for very different reasons. I have seen adoptions where birth parents have been the most violent kind of criminals or where incest was involved in the birth of the child. As time has gone on, I varied my own procedures in my own court and as these requests came in, particularly in more recent years, I became quite open to the suggestion that we should inquire on behalf of these adoptees as to whether there would be objection from the birth mother, in particular, and would order my registrar, as it has been suggested and apparently some registrars have given testimony in front of the Judiciary Committee, to make inquiries. By the way, I have had no part until this moment in any of this. Sometimes I would actually follow it myself. I would make the phone calls myself. It is startling, some of the responses you would get and some of the circumstances that you would uncover. The most vivid ones are the ones that come to mind. Some of these circumstances have been put behind people and they have formed new families and new relationships around a new set of circumstances in their lives. Their families do not know and have not heard of these prior circumstances that led to the surrender of the children and the ultimate adoption. I just wanted to bring to your attention that

the point of view which the good Senator from Sagadahoc, Senator Benoit, has brought to you is a very valid point of view, but it is one of several points of view that is valid here. I do think that times have changed. To me, I think it's probably time to change our confidentiality law. I am not sure if this particular vehicle, where we just do it cold turkey and ignore all of the other interests, is the right way to do it. I would have no problem with doing it prospectively. I would probably have no trouble at all, as a former judge who has given assurances of confidentiality to many people who have inquired at the bench if this was real confidentiality and that it would be honored. I have given these assurances, personally, to a number of people that have specifically inquired before me. I do think that prospective would be a way of handling it. I do also think that many judges have now come to the point that I came to where they would make aggressive efforts to inquire of the interested parties whether it would be agreeable to open these records and have opened them based upon that information. I think that a new law that recognizes that practice, and I think that's a practice that is followed in many of the probate courts, if not all of them, at this time. I think that something that recognizes today's practice and looks forward, rather than retroactive after assurances have been made for so long by so many, would be the way to go. At the moment, having made these assurances myself, I feel only duty bound to support the pending motion, but I can certainly understand the emotions that bring this to us. I think there is a good deal of validity to them and I think there is an opportunity going forward to think through and make careful changes that protect the commitments that have been made to others and at the same time move this very valid agenda forward. I don't think the cold turkey approach that this brings to us is the proper vehicle. Thank you.

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

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. I hesitate to even speak, and I will be brief, because nobody can hope to improve upon the statement of the Senate from Sagadahoc, Senator Benoit, or address this issue with more eloquence, grace, and personal knowledge of the issue before us. I simply rise to lend my support for the good Senator from Sagadahoc, Senator Benoit. I cannot imagine that we, as a Body, would consider depriving any other individual of something most of us have taken for granted our entire lives; the knowledge of who we are and where we come from. I think it would be torment of the cruelest kind to sit before a judge who has before him a folder that would tell you who you are and where you come from and to know that this judge has the power to deprive you of that knowledge. I cannot imagine something more painful. Nobody should be subject to the vagaries of the legal system or the particular judge that you happened to be before when it comes to something so basic to our humanity. It seems to me, as the Senator from Aroostook, Senator Sherman, said, to be a basic human right and for that reason I will be opposing the motion before us and supporting the Minority Ought to Pass Report.

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

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I've been listening off and on to the debate from another location. I just need to add my comments. I have members of my family who were adopted, are adopted, and in one instance they used the process that is in law now to file with the Department of Human Services for the cross match where the child files and then the mother, if she so chose, could also do that match. At that point, notification is made under the law. That was done. I think of other instances where other members of my family have chosen not to do that for their own reasons. I have respected their wishes. I think the concern that I have is the retroactivity that we are establishing under this bill. People went through very tough times in arriving at that decision and making that choice. It is instances where mothers made that decision. Frankly, 20 or 30 years ago that was the decision they made. For us to now retroactively try to open up all records, I just don't think it is wise. I don't believe it is a thing we ought to be doing because there are still people out there, I am sure, who do not want to be recognized as parents and it may be the other way around for all I know. I have not personally gone through that, as other members in this Body have. I know that in instances of my own family, those were things that are very dear to them and it is something they don't want to be part of. I can see where we could change law for future use and then everyone would know the rules when they make whatever decision they make, the decision to give up a child. Everyone would know up front what that is and what that right is and what is going to happen to them and the children. I feel very uncomfortable with the way in which the other report is going. I know that this issue has been studied infinitum, but I suspect it's been studied as much as it has because it is so difficult, so wrenching, for people who have gone through that situation. I don't think that we should reopen the injuries that occurred 10, 20, 30, or 40 years ago. I think it is far too difficult and I think that we would be making a horrible mistake that we would live to regret and families would live to regret if we accept the other report. I would urge everyone in this Body to accept the Ought Not to Pass Report.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#184)**

**YEAS:** Senators: HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MITCHELL, PERRY, ROSEN, ROTUNDO, SCHNEIDER, SMITH, SNOWE-MELLO, WESTON, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, MILLS, NASS, NUTTING, PLOWMAN, RAYE, SAVAGE, SHERMAN, STRIMLING, SULLIVAN, TURNER

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **HOBBS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

On motion by Senator **NUTTING** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-601) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **MITCHELL** of Kennebec, Senate Amendment "C" (S-344) **READ**.

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

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. This is certainly a very difficult debate to enter after listening to the eloquence of my colleagues. I almost feel unqualified to speak since there are many members in this chamber who have experienced first hand adoptions, both being adopted and adopting. I am so fully respectful of all of you and all of the things that you have experienced. I will say that I was a foster mother to a Cambodian child, who was so starved by war that he refused to acknowledge his parents, his ethnicity, nor did he want to be adopted by me or anybody else. That's the closest I've ever come to the opportunity for adoption. As I stand here tonight, I wish for the wisdom of Solomon. There is no right answer in this case. We are trying to divide the baby or the birth parent, whatever your choice of imagery might be. There is no right answer because people are different. There are closed adoptions that work. There are open adoptions that work.

As I listened to the former judge of probate in Piscataquis County talk about his experiences in dealing with this very difficult issue, I must confess that I thought of my own husband, who is the judge of probate in Kennebec County, who shares the same experiences that the good former judge had. I spoke with him prior to this debate, inquiring about what happens in Kennebec County since I had heard it was a very uneven proposition. He has worked diligently in his court for any child seeking a birth parent. He went to confidential sources to ask, so no one was revealed, to see if they wished to be identified. In a very rare, small percentage of the cases, they did not wish to be contacted.

I present an amendment, the amendment before you, that says that changing this very serious State policy is prospective. Anybody that gives up a child for adoption from this point forward, beginning in January 2009, knows up front what the rules are concerning being reunited, or coming back into contact, with the child. I do, indeed, understand the very serious nature of what we are doing, but in all of my attempts to pass laws in this Body and to deal with them, almost everything that we've ever done in this Body about retroactive behavior has been wrong. We have created many problems, lots of unintended consequences, because people enter into an agreement and there is nothing more sacred nor more precious than this issue of a human life being adopted by another family. In that balance we have made

a promise, through State policy. Most of the women involved in this had nothing to say about the State policy then or now because they were probably ordinary women, living their lives, and in very difficult circumstances, I am certain, decided to make a decision that their lives could never be the same and that they were giving up a child they had carried to term. I'm not an adoptive parent but I am a birth parent. I know that giving up a child that I had carried to term would be the most wrenching decision that I could ever make. If I did that, and I was promised by a court of law that my privacy and my confidentiality would be respected because I was doing this out of love for this child, wishing this child a new life, and I would try to create another of my own, I would not want some august Body sitting in Augusta on one June afternoon to say that they didn't mean it because they know better now and that the State policy should change. I think being retroactive is my problem, though I have the deepest of respect for the Senator from Sagadahoc, Senator Benoit. I urge adoption of this amendment so we can change our policy to one that is more humane for the 21<sup>st</sup> Century but that people will go into it with their eyes open and they will know what to expect. I thank you for your time and I know that you are wrestling with a difficult decision.

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

Senator **BENOIT:** Thank you, Madame President, ladies and gentlemen of the Senate. I went before the judge two weeks ago and I was denied my birth certificate. He was sitting across from me with my folder, thumbing through it while he was asking me why I thought it was a good idea that I do that. I told him that I'm 52 years old and I just wanted to know. I've never searched before. I can remember when I was twentyish or so. I was really curious. I went to a woman that supposedly had some kind of search mechanism. Once the internet got up, maybe 10 years ago, I can remember going on line and fumbling around through it. I never did get any better at the internet. I think I never went forward because I was blessed with wonderful parents and I never felt a strong need to go to that next step.

In searching out this bill and putting myself in the shoes of other adoptees and being their voice on the floor, hearing their stories, and hearing stories from birth mothers and from adoptive parents, I thought I needed to go full circle, I needed to petition that court, and suck it up and go in there to find out what actually happens. I did and I was denied. He looked at me and said, 'Too bad you weren't born in 1953.' I just thought, 'God, have mercy on us all, where are we going? This is beyond belief.' I could have easily pulled that cancer card out of my back pocket and thrown it on the counter and said, 'I have a biological son that has had medical issues when he was a little boy. I have had cancer. I would like to know some history.' I did not because I thought it is not right for me to do that when so many would never have that opportunity. I'm not a martyr. I'm not special. I'm just who I am and I really needed to go through this full circle so I could have the strength to stand here and tell you that it is time now to put an end to these secrecies and promises that were made when they shouldn't have been made for total anonymity.

I am not sure how to handle this, Madame President, so I need to ask your guidance. I would like to move for indefinite postponement on this please.

Senator **BENOIT** of Sagadahoc moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-344).

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

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

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. This evening the Senator from Sagadahoc, Senator Benoit, and other members of the Body made a very convincing case to us all that when the law changed in 1953 we created a class of children who could not find out who they were and we all recognize the need. This amendment would actually lengthen the amount of time that those children, that this category, would continue by two more years. We have just recognized, in the previous vote, that there is a need. Please don't go back and say, 'Let's extend that class by another two years.' The need did not change from the last vote to this vote. I would ask you to please vote to indefinitely postpone this and make it so that the needs that you heard will be the needs that we meet. In fact, it makes the class that much longer, not just two years. Any child that would be born and adopted sometime between now and then would wait another 18 years before they could ask. You'd actually be extending this group of people by 20 years. I don't think that was what we were convinced of this afternoon and I would appreciate that you remember what you heard earlier. Thank you.

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

Senator **BROMLEY:** Thank you, Madame President, men and women of the Senate. I won't insult you all by saying I'm an objective voice because that's a very good term. I'm not an adoptee and I'm not a birth parent of an adopted child and I'm not an adoptive parent, but I have sat with many of them in my capacity as a clinical social worker. I can tell you that the on previous vote some of us, maybe reluctantly and maybe with discomfort, voted against the Majority Report. I just want to hold for us that energy from the last vote and ask that you join us in supporting the motion to indefinitely postpone because we would simply take away all that we talked about. We would take away the right for someone to know who they are. I don't think that is what we want to do. Let's just be clear for a second. The only people that will have an intrusion in their lives would be from adult children who went down that list and got all the way to that place that said 'Don't contact me' and decided to do it anyway. I don't think there will be many of those. Maybe there will be one. Maybe there will be two or ten. Perhaps there will be birth mothers who have some intrusion in their lives that they didn't want. Let's balance that with the fact that there are scores, hundreds and thousands, of adult adopted children who are yearning, with a hunger that none of us can understand if we haven't felt it, for this information. I believe that is what the arguments persuaded to vote for on the previous vote and we need to support this pending motion so we don't slide back.

I'm going to tell you, just very briefly, a related story. I have a constituent who 38 years ago lost her husband in Viet Nam. She's been wearing her wedding ring for 38 years, wondering if

she was a widow or something else. She doesn't know. There was front-page news when a couple of bones from this individual were found months ago. She flew all the way to Hawaii to bring those two bones home for closure, to know who she was. A widow or not a widow. Somehow we all could understand that a little bit, I think, because we could imagine being a widow or not a widow. This is really hard to understand. I can tell you, sitting with the hunger and the yearning of children wanting to know, not to necessarily wanting to meet the person but know, is compelling. I urge you to join me and others in supporting the motion of indefinite postponement. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Benoit to Indefinitely Postpone Senate Amendment "C" (S-344). 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 (#185)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, NASS, NUTTING, PLOWMAN, RAYE, SAVAGE, SHERMAN, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: BRYANT, HASTINGS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, PERRY, ROSEN, ROTUNDO, SCHNEIDER, SMITH, SNOWE-MELLO, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **BENOIT** of Sagadahoc to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-344), **PREVAILED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-601)**, in concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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

#### PAPERS FROM THE HOUSE

##### Non-Concurrent Matter

Bill "An Act To Increase the Number of Androscoggin County Commissioners"

H.P. 1349 L.D. 1916  
(C "A" H-507)

In Senate, June 14, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-507)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-507) AS AMENDED BY HOUSE AMENDMENT "A" (H-608)** thereto, in **NON-CONCURRENCE**.

Senator **SCHNEIDER** of Penobscot moved the Senate **INSIST**.

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

Senator **SCHNEIDER:** Thank you, Madame President, men and women of the Senate. This amendment essentially guts the original amendment from the bill. This bill originally came to us out of a conflict that was occurring in Androscoggin County between the sheriff and the county commissioners. The argument was made to the committee that speed and urgency was the reason why they wanted us to take action to increase the number of county commissioners. At this point, what has come to us from the House is an amendment that provides the very same Androscoggin County commissioners, who have been in conflict with the sheriff, the ability, if they so choose, to establish an apportionment commission and it delays the possible increase in county commissioners in Androscoggin County until the November 2010 election. If you believe and you want to increase county government support this because that is what you will be on record again saying, for another time, that you want to increase county government and essentially negating the reason that this was brought forward and the urgency behind it, which was to try to solve a problem that is currently occurring in Androscoggin County. This bill is not the right tool to address this problem. There is a charter mechanism and that is the appropriate tool. I hope that you will support the Insist motion. If you so choose not to, you will be on record in support of increasing county government. Thank you.

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

Senator **NUTTING** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. Yes, we are struggling in Androscoggin County. The budget committee members from Androscoggin County that I have talked to support the bill in its present form, as it has come to us from the other Body. In speaking to the sponsor of this particular L.D., by his count, the Androscoggin County legislative delegation supports this measure by an unofficial vote of 16 - 2. When I was Chair of the State and Local Government Committee we always placed great emphasis on what the local county delegation felt. I think the budget committee members and others in Androscoggin County government realize that the original committee amendment probably set an unrealistic October 1, 2007 deadline. This amendment, H-608, that comes

to us from the other Body gives a little more time for these changes to happen. I would urge this chamber to Recede and Concur. Thank you.

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

Senator **SNOWE-MELLO:** Thank you, Madame President and ladies and gentlemen of the Senate. I also would like you to go with the Recede and Concur. I'm going to tell you why. I currently serve on the Androscoggin County budget committee. It is my honor to do so. This year the budget committee worked extremely hard to keep our taxes down. It was a hard, very difficult, and long process. As a matter of fact, I don't think we've ever had budget hearings that were that long and as much debate as we did. The budget committee came out with their findings. We were able to keep the budget much lower than we thought we could. We kept taxes low and under cap. The county commissioners were more or less fighting us tooth and nail. We feel that we would like to have the opportunity to look into this further to see whether we need to have two extra commissioners. The extra extended time would allow us to see how we can do that. We will, in the end, want to send this out to the people for a vote to see whether they agree with us. We also feel that the rural communities aren't getting the representation with just three commissioners that they should get. We thought that two extra commissioners would be more fair and more balanced. I'm going to ask you to please help this county as we move forward. It's been very difficult. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. In all due respect to my good colleague, the Senator from Androscoggin, Senator Snowe-Mello, this will not address the problem that they are trying to address. An election, an ousting of the person in power, now will address that problem. This is not going to address it. In fact, the amendment asks the very people who they are currently having the problem with to put this process in motion. This amendment is fruitless. It is a nothing bill. I hope that you will not support this Recede and Concur motion. This amendment really is not worth the paper it's written on. Again, I just want to say that this is putting you on record as being in support of increasing county government.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Recede and Concur. 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 (#186)**

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR**, **PREVAILED**.

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**Non-Concurrent Matter**

Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Creating the Public Access Ombudsman"

H.P. 1361 L.D. 1923

In Senate, June 13, 2007, **PASSED TO BE ENGROSSED**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-607)**, in **NON-CONCURRENCE**.

On motion by Senator **HOBBS** of York, the Senate **RECEDED** and **CONCURRED**.

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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:

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

H.P. 1313

**JOINT RESOLUTION SUPPORTING  
THE APPLICATION OF THE REPUBLIC OF CHINA  
FOR OBSERVER STATUS AT  
THE WORLD HEALTH ORGANIZATION**

WHEREAS, good health is essential to every citizen of the world, and access to the highest standards of health information and services is necessary to improve public health; and

WHEREAS, the first charter of the World Health Organization, or WHO, sets the goal of attaining the highest possible level of health for all persons; and

WHEREAS, Taiwan's achievements in the field of health are substantial, including that Taiwan was the first nation to eradicate polio and provide children with hepatitis B vaccinations, that Taiwan possesses one of the highest life expectancy levels in Asia and maternal and infant mortality rates comparable to those of Western countries and that Taiwan has succeeded in the eradication of such infectious diseases as cholera, smallpox and the plague; and

WHEREAS, Taiwan's population of 23,000,000 people is larger than the populations of 3/4 of the member states already in WHO; and

WHEREAS, with the potential of the cross-border spread of diseases, such as the human immunodeficiency virus, tuberculosis, malaria, severe acute respiratory syndrome, and avian influenza, it is crucial for all countries, including Taiwan, to have direct and unobstructed access to information and assistance from WHO in order to limit successfully the spread of various infectious diseases; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart agencies have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in 2002, the United States Senate and the United States House of Representatives authorized the Secretary of State to endorse observer status for Taiwan at the World Health Assembly, and the United States House of Representatives repeated its endorsement in 2006; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to commend Taiwan's efforts to improve world health and support its efforts to gain observer status in the World Health Organization; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; to United States Secretary of Health and Human Services Michael Leavitt; to Dr. Margaret Chan, Director-General of the World Health Organization in Geneva, Switzerland; and to Director-General K. T. Yang of the Taipei Economic and Cultural Office in Boston, Massachusetts.

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

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **JUDICIARY** on Resolve, To Study Adoption Laws and Practices (EMERGENCY)  
H.P. 307 L.D. 391  
(C "A" H-586)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-586)** (8 members)

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

In House, June 18, 2007, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-586)**.

In Senate, June 18, 2007, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

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**Non-Concurrent Matter**

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

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

In Senate, June 14, 2007, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-398)**, in concurrence.

Comes from the House, **FAILED PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-398) AND "B" (H-597)**, in **NON-CONCURRENCE**.

On motion by Senator **MILLS** of Somerset, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-398)**.

House Amendment "B" (H-597) **READ** and **ADOPTED**, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-398) AND "B" (H-597)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

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On motion by Senator **MITCHELL** of Kennebec, **ADJOURNED**, to Wednesday, June 20, 2007, at 9:00 in the morning.