

MAINE STATE LEGISLATURE

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

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An Act To Increase Access to Dental Care
H.P. 1562 L.D. 2192
(C "A" H-902)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, April 4, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-902)**, in concurrence.)

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

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

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

Emergency Resolve

Resolve, To Assist Maine's Forest Products Industry
H.P. 1588 L.D. 2222
(C "A" H-775)

Tabled - March 27, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 25, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-775)**, in concurrence.)

(In House, March 27, 2008, **FINALLY PASSED**.)

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

The President requested the Chamber Staff escort the Senator from Cumberland, Senator **BROMLEY** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **LYNN BROMLEY** of Cumberland County.

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

An Act To Establish a Uniform Building and Energy Code
H.P. 1619 L.D. 2257
(H "B" H-1005
to C "A" H-983)

Tabled - April 15, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 14, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-983) AS AMENDED BY HOUSE AMENDMENT "B" (H-1005)** thereto, in concurrence.)

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

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

Senator **ROTUNDO**: Thank you, Madame President, men and women of the Senate. I do want to read in the legislative intent on L.D. 2257. I want to read this into the record. My comments deal with the issue of enforcement and the role of municipalities.

The legislature recognizes that enforcement of building codes at the local level is the most efficient and effective means of yielding the public benefits that these codes can provide. It's the intention of this legislature to increase compliance with the Maine Uniform Code in towns over 2,000 by maximizing options for local inspection. The legislature intends for inspection by certified third party inspectors to be an option available for all towns, which will lay the responsibility for inspection on private parties rather than the municipality. Should municipalities elect to use this third party option, it is not the intent of this law to hold municipalities responsible for any act except the receipt and filing of the report of a certified inspector prior to the issuance of a certificate of occupancy. It is not our intent, for example, that municipalities shall be liable for the accuracy of the inspection report. Should municipalities elect to use more direct or intensive enforcement options, such as use of code enforcement officers on payroll, it is our intent that those towns do so at their own cost, which the law allows to be recovered in building permit fees.

Thank you.

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

Senator **ROSEN**: Thank you, Madame President, men and women of the Senate. I would encourage you to vote against the pending motion. Often times there is a considerable agreement on the underlying uniformity of the code, but as often times happens in the exuberance of the legislative process there is an over-reach and the additional level of mandatory enforcement, energy code, and other components that are built into this entire package, I'm afraid, is an over-reach and will result in severe push back and would request that you oppose the pending motion.

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

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

Senator **COURTNEY:** Thank you, Madame President, men and women of the Senate. I also wanted to speak against this bill and I will be voting against it as I have all along. In my opinion there is still a mandate on this. I realize there were some words read into the record that is trying to absolve us from that, but that can be challenged at a future date. I expect that someone along the line will. I just want to go on the record as saying that. I guess what troubles me more than anything else is the mandate is being passed on to the contractors and the future homeowners. The opportunity that we're passing for municipalities to pass off that inspection could actually increase the cost of homes. I just want to go on the record as saying that.

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

Senator **SCHNEIDER:** Thank you, Madame President. I had not anticipated speaking again on this bill. However, I do think it's important to note that I think in the long run, and it won't be very long, new homeowners will reap the rewards of this energy code and building code. We know that fuel prices are all too high and they continue to skyrocket. Certainly this will protect future homeowners from those incredibly high utility bills. If by moving this bill forward there is a little bit of extra cost in the initial building it will certainly be made up very quickly, within I believe the first year of home ownership and over the lifespan of that home they will save thousands, if not hundreds of thousands, of dollars. I encourage the passage of this bill. It's been one that has been vetted over many, many years, well before my time in this legislature. It's long overdue. I hope and I urge your passage of this bill.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I'm going to be careful with what I say because I'm trying to hide my anger over this particular proposition that is before us. I'll begin by saying I encourage you to support enactment. It's an important piece of legislation. Long overdue. I would further suggest to you that if we had such legislation in place ten, fifteen, or twenty years ago we wouldn't be worried about trying to fund LIHEAP for so many of our low income families and individuals around Maine because they would be in energy efficient homes by this time.

As to the mandate associated with this legislation, the Fiscal Office deemed it to be insignificant. What we are asking the municipalities to do is to open an envelope and read its contents. Significant requirement of energy and money on their part, and I say that in complete jest. I guess in closing I would, as gently as I can, admonish the Maine Municipal Association. After six years as an elected municipal official, I put myself firmly in the camp as a big fan of MMA. That was during the year that Kay Rand, who later became Governor King's Chief of Staff, ran the organization and it was about good government in an integrated fashion

between locals, counties, and the State. That was always at the forefront of her mind and reflected their policies. Somewhere, in my judgment, MMA has lost its way and I see them as an obstruction to good government these days rather than a proponent of good government. I'll simply close by urging you to support the pending motion. Thank you.

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

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I know a tremendous amount of work has gone into this. I'm particularly supportive of the energy piece of it because I agree with the previous speakers that it will save people money. The reason I opposed it before and will oppose it this afternoon is that the code states that a living space must conform to code prior to occupancy being granted. I have a lot of people in my district that, due to fiscal constraints, kind of build their house and live in it at the same time. I wanted to make sure that they could move out of the basement, which would meet code, and move to the second floor in May and make sure they had it insulated by the first of November. The code, today, does not allow that. I'm very supportive of the sponsors of this bill. They are agreeing with me in that they think that this board that is set up could make that change in the future. I hope, if this bill passes and I think it will, that this change will be made in the future to accommodate people trying to build a home and maybe not do it in the standard way where you hire somebody to build it and then move in. That works for a lot of people, but it doesn't work for everybody. I understand. I don't want somebody to be allowed to move into a space in November if it's not up to code. Over the course of the summer I'm hoping the board can make these changes to this code to allow somebody to make sure it's up to code by the first of November when they are living in the current space. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I just wanted to briefly state for the record that this code would not prohibit someone who is building their own home to live in it during that process. Indeed, someone building their own home would have exemptions from the codes. There is nothing in this proposal that we are passing that would prevent the concerns raised by the good Senator from Androscoggin, Senator Nutting. I wanted to make sure this was clearly articulated for the record. Thank you.

THE PRESIDENT PRO TEM: 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 (#470)

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, COURTNEY, DAMON, DIAMOND, DOW, GOOLEY, HOBBS, MARRACHE, MARTIN, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, EDMONDS

NAYS: Senators: BRYANT, HASTINGS, MCCORMICK, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SHERMAN, SNOWE-MELLO, WESTON, THE PRESIDENT PRO TEM - LYNN BROMLEY

ABSENT: Senator: SMITH

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

The President Pro Tem requested the Chamber Staff escort the Senator from Cumberland, Senator **EDMONDS** to the rostrum where she resumed his duties as President.

The Chamber Staff escorted the Senator from Cumberland, Senator **BROMLEY** to her seat on the floor.

Senate called to order by the President.

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

An Act Establishing an Outdoor Wood Boiler Fund
S.P. 891 L.D. 2263
(C "A" S-567)

Tabled - April 10, 2008, by Senator **ROTUNDO** of Androscoggin

Pending - **ENACTMENT**, in concurrence

(In Senate, April 7, 2008, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-567).**)

(In House, April 10, 2008, **PASSED TO BE ENACTED.**)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#471)

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

NAYS: Senators: None

ABSENT: Senator: SMITH

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (4/11/08) Assigned matter:

HOUSE REPORTS -from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Laws Governing the Reorganization of School Administrative Units" H.P. 1646 L.D. 2281

Report "A" - **Ought Not to Pass** (6 members)

Report "B" - **Ought to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "A" (H-815)** (2 members)

Tabled - April 11, 2008, by Senator **BOWMAN** of York

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

(In House, April 9, 2008, Report "B", **OUGHT TO PASS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-985).**)

(In Senate, April 11, 2008, Reports **READ.**)

Senator **BOWMAN** of York requested and received leave of the Senate to withdraw his motion to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**.

Same Senator moved the Senate **ACCEPT** Report "B", **OUGHT TO PASS**, in concurrence.

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

The Doorkeepers secured the Chamber.