Legislative History for Connecticut Act

HB 7136 PA 89-224 1989

Environment 226-229, 243-245, 261-264, 269-270, 278-280, 293-297, 303-313, 329-332 (36)

House 1432, 5823-5861 (40)

Senate 526, 1093, 2347-2351A, 2413-2414 (10)

TOTAL 86 pages

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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JOINT
STANDING
COMMITTEE
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REP. MUSHINSKY: Leslie Caruthers? Okay. Victor Perpetua?

ATTY. VICTOR PERPETUA: Representative Mushinsky, Representative Mazzotta, Members of the Committee, my name is Victor Perpetua. I am Counsel for the Freedom of Information Commission. I am here today on behalf of the Commission, to speak about HB7136, specifically and very specifically about section 4b of HB7136, which would exempt from the Freedom of Information Act DEP information disclosing the location of essential habitats for endangered species.

Recognizing the commendable purpose behind this bill, the Freedom of Information Commission, none the less, wishes to raise its concerns with section 4b, and ask the Committee to consider the question how the public interest in the confidentiality of these species weighs against the public interest in the disclosure of the habitats of these species. On the one hand, the interest in confidentiality, I believe would be based on the necessity and the effectiveness of withholding the information. As to the necessity of withholding the information, I would simply draw the Committee's attention to the regulations that, that govern the taking of species, the regulations that provide for checks on other state agencies, as to the destruction of these habitats, and the provisions that impose sanctions on individuals for activities that would endanger these species.

As to the effectiveness of this provision that would make the habitats' location confidential, I would ask the Committee to consider whether it is really true that citizens would use such a list to engage in search and destroy missions upon endangered species. I can understand the fear of this kind of activity, but I would ask whether it is truly a legitimate concern.

Given the potential questions of effectiveness and necessity, I ask the Committee to consider the public interest in making this list not confidential, in making it open to the public, and ask whether the public interest in knowing where these habitats, what habitats are identified, where

species may be observed, and how well the state is doing its job to protect these habitats and species, whether these interests may outweigh the public interest in maintaining the confidentiality of these lists.

I note that section 1 of this bill lists ways in which these species are valuable to the people of the state. Talking about things, such species are of ecological, scientific, educational, historical, economic, recreational and aesthetic value to the people of the state. Well, how are such values as educational, recreational and aesthetic values to be realized, if the locations of these species are secret?

I would ask the Committee to consider such circumstances as a parent, who would like to take his or her child to observe endangered species, calls DEP for a list, and is told, "I am sorry. That list is confidential. I can't tell you." Or a biologist who wants to research how well a species is surviving in an identified habitat, who tries to get a list from DEP and is told, "I am sorry. That list is confidential." Or, a citizen who wants to know how well DEP is doing its job in identifying habitats, in maintaining habitats, in acquiring habitats, and is told, "I am sorry. That information is confidential." I would ask the Committee to consider whether these examples illustrate that there is a significant public interest in the information regarding these habitats and that that public interest may very well outweigh any interest in confidentiality.

Thank you.

REP. MUSHINSKY: I have a question.

ATTY. VICTOR PERPETUA: Yes.

REP. MUSHINSKY: We went through this whole thing three years ago, or actually it was 1984, when I did the rare, threatened or endangered species laws, and you folks fought it. And, then, we sat down over a three or four week period and hammered out a compromise. Now, I don't know if you were on the staff then...

ATTY. VICTOR PERPETUA: I was not.

REP. MUSHINSKY: The compromise was Section 24-2a, where we said that the Commissioner may withhold the information upon determination that disclosure of such information would create an unacceptable risk of destruction of or harm to such species. And, then prior to disclosure of maps or records to any person, the Commissioner may impose a reasonable condition, including a condition that the person to whom the information is disclosed furnish the Commissioner with security, in an amount and kind sufficient to guarantee that the person shall not destroy or harm or cause to be destroyed or harmed the rare, threatened or endangered species.

A person whose request for disclosure has been denied gets the opportunity for a hearing, to establish that the requested information should be disclosed, because the disclosure would not create an unacceptable risk of destruction or harm to the species and the unreasonableness of any condition imposed, including the amount or kind of any security to be established. Now, at that time, your Commission agreed to this type of protection for Freedom of Information, and now it seems to me that you are backing away from that position.

If we had language with similar requirements for security or something for the Commissioner to weed out the serious student from the possible collector, then why would you object to this section staying in the bill?

ATTY. VICTOR PERPETUA: If there were reasonable regulations that did not entirely make this information exempt, I do not believe the Commission would object. I would simply point out that there may be interests of citizens as well as serious researchers, that would also need to be addressed.

REP. MUSHINSKY: Okay, but when you are talking about a rare species, it may be necessary for the Commissioner to limit the number of people. You can't have 800 people trampling on a small patch of

...you know, the last remaining plant of that species in Connecticut. You know, she has to have some power to limit visitation to that rare plant.

ATTY. VICTOR PERPETUA: Yes, and I don't think that the Commission would object to more, to regulations which accomplish that result. The Commission's objection is to broad language, which would totally exempt this list.

REP. MUSHINSKY: All right. Would you work with us, as your Commission did in 1984, to write something similar to 24-2a, so that we can both... You know, so that we can get the protection that we seek for the plants and animals and you can get the ground rules that you seek?

ATTY. VICTOR PERPETUA: Certainly will.

REP. MUSHINSKY: Okay. Thank you. Any other questions? Please, could you leave your phone number with our Clerk, so we can get in touch with you for the redraft?

ATTY. VICTOR PERPETUA: Thank you.

REP. MUSHINSKY: Thank you. Mayor Dominic Mazzoccoli.

MAYOR DOMINIC MAZZOCCOLI: Mayor Dom Mazzoccoli, from the town of Newington. Members of the Environment Committee, I am here to speak on SB710 and HB7253. Obviously, the town of Newington is very interested in these two particular bills and hopes that they do be approved and enacted as part of state law. The situation in Newington is such that we have had some large manufacturing processing facilities that have impacted our environment. And, I would like to speak to the various sections of the bill.

Section number 1 in HB7253, that no new permits be permitted unless the Commission, the Commissioner reviews compliance with existing regulations, local, state regulations and federal regulations. We feel that this is very important in terms of ensuring compliance with all aspects of the law. And, secondly, that if there has been periods of non-compliance or violations of the law, that that be taken into consideration, and that the Commissioner not allow a new permit. We think it

REP. MUSHINSKY: Why don't you go through the bills one at a time, and have the person from, that specializes in that issue sit with you when the issue comes up.

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COMM. LESLIE CAROTHERS: Fine. Again, our first priority in this set of bills is, as I indicated on the first day, the endangered species legislation. I am not going to give another speech about why, why we think this is necessary, but we do. And, we think there is growing support for establishing this kind of program in the state.

As you know, it allows us to issue regulations that list state endangered and threatened species and identifying essential habitats as a two year process. It doesn't happen over night. And, we would build on our existing natural area diversity data base in order to develop that list. What the law does, basically, is once that list is established, is it prohibits people from taking those species and selling them, using them for commercial purposes. And, it also prohibits people from going on other people's land without their consent, and taking those species. And, it also makes endangered species impacts an element of consideration for state projects that are reviewed under the Connecticut Environmental Policy Act.

In terms of numbers? We estimate, let's see... There would probably be about 35 animals and about 70 plants that would be likely to be listed eventually, perhaps not all in the first wave. These numbers are comparable to those that are listed in other states that have programs. We are not talking about thousands of species, and we are talking about proceeding in a very deliberate way to list them.

As I indicated, we think there are good reasons to do this. We think it is Connecticut's share of helping to maintain enviro-diversity. Hardly a week goes by, it seems, that I don't see another article about the uses of plants, in terms of ways that benefit people. February 5, 1989, the New York Times, cancer therapy from a tree. A case of a chemical, a pharmaceutical company is buying up bark from a specific yew tree, because it appears

to have an impact on the treatment of ovarian cancer. That is just one more example of the ones that I gave you, a few of the reasons why we care about getting this bill through and doing our part to protect endangered species in Connecticut.

REP. MUSHINSKY: Commissioner, we had a problem before you came in with Freedom of Information, in section 4b. So, if you could provide someone from your staff, we will need to redraft that section to address their concerns.

COMM. LESLIE CAROTHERS: Okay. Well, as you know, there is a bit of a difficulty in terms of how you deal with the location of where these are, because we want to be as open as possible, and we have to use this information in the planning process. On the other hand, we don't want to give people road maps as to where they can go and dig up endangered flowers and things like that. So, we would be glad to work with you to fashion something that reconciles those competing demands.

REP. MUSHINSKY: Yes, your Department helped us write a compromise several years ago. And, I am sure we can do it again.

COMM. LESLIE CAROTHERS: Okay. Are there any other questions on that?

REP. TIFFANY: Commissioner, there isn't any cost factor in the bill itself. Can you give us an idea of what you think the annualized cost would be for the program?

COMM. LESLIE CAROTHERS: I would be glad to submit that for a couple of years out. For the first two years, when we are going through this listing process, I have represented it, without misrepresenting, that we expect to do it within our existing resources. We have staff and people who are working on the natural diversity data base now, and basically their efforts will be shifted from further cataloguing of Connecticut resources, to doing the staff work necessary to make decisions on listing.

So, basically, we would be...for the next two years, which is the period for listing species and developing habitats, we would not expect any additional resources for that function. The CEPA function, the review of things like, you know, publicly funded projects, state funded projects, we already consider and advise applicants in the CEPA process, where we know that there are species of concern in those areas. So, we just don't have an official list. And, so I do not anticipate that that review will entail a higher level of staff resources than we now devote to it.

Down the road, when the lists are in place, there will be some, I think modest, but some resource impact, in terms of enforcing the taking prohibition, that our conservation officers would be involved in. And, I will try to give you something on that. That is several years out that we would get to that point, and so we have not done that analysis in depth yet.

REP. TIFFANY: When you were up before the Appropriations Committee, did you address this type of program in detail at all?

COMM. LESLIE CAROTHERS: No, not yet. I have not yet... My Sub-Committee hearing is on Thursday. We did not get into that in a lot of detail at the big, at the full Committee hearing, Representative Tiffany.

REP. TIFFANY: Thank you.

REP. MUSHINSKY: We are getting close to the end of our public hour, public officials' hour. So, if you could briefly go through each of the others...

COMM. LESLIE CAROTHERS: Okay. Let's see, again, trying to take these in some order of importance to me, at least. But, I guess of this list, the group that is second in my mind is raising the cap on the expenditures for capital projects, that DEP can manage on its own, from $250,000 to 1 million dollars. HB 735

our financial resources do not allow us the luxury of pursuing all worthy situations. Our advocacy role is compromised by the financial risk we incur in using the Environmental Protection Act to save buildings.

We are unable to exercise the right conveyed by the Protection Act because of the lack of financial stability, which is a situation which we share, I am sure, with many non-profits. By assessing the defendants for attorney's fees and costs, it then becomes more reasonable for us to protect the built environment, through the Environmental Protection Act.

Thank you.

REP. MUSHINSKY: Thank you. Any questions? David Sutherland? Followed by Steven Blum?

DAVID SUTHERLAND: Good morning. My name is David Sutherland. I am the Director of Environmental Affairs for the Connecticut Audubon Society, and I am urging your support today for HB7136.

I would like to first call your attention to the fact that this Thursday evening, Connecticut Public Television is airing a brand new program they have just finished producing on Connecticut's endangered species and efforts to protect those species.

I think the first image that comes to some people's minds when they hear the term "endangered species protection" is the case of the snail darter fish and the Teleco Dam down in Tennessee back in the '70's. I think this is often the first image that comes to mind, because it is the one notorious case that has attracted wide-spread public attention in the 16 years since the federal act was passed. I think this one case has tended at times to overshadow the 16 years of quiet, day-to-day efforts by federal officials and wildlife specialists who have been working to protect some of our most valuable and most vulnerable species in a fair and balanced manner.

I don't want to dwell on the snail darter case, because I don't think it is really relevant to the law that is being proposed today. But, since it seems to provoke strong feelings, I want to dwell on it just long enough to point out that the Teleco Dam was completed in this situation. It was completed even though many officials and many citizens agreed with Senator James Buckley, former Republican of New York, who wrote at the time, quote: "A re-examination of the economics of the Teleco Dam demonstrates that it is again another Public Works boondogggle. It would add only about 1/100th of a percent to the TVA's electric generating capacity, while flooding 16,000 acres of prime farmland, having a productive potential of more than 50 million dollars a year," end of quote.

In spite of its economics, in spite of the snail darters, certainly, the dam was completed. Its eventual fate was determined far more by political concerns than by concern for any rare species. To those who still would question whether a species like the snail darter should have been a factor at all, Senator Buckley wrote, and I quote further, "What good is a snail darter? As practical men measure, probably none. But, we simply don't know. What value would they have placed on rubber trees, before Goodyear learned to vulcanize their sap? Who would have thought the armadillo of critical importance in the study of leprosy? Fully 40% of modern drugs have been derived from nature," end of quote.

We simply don't know, in most instances, what, which species is going to be able to resist the affects of pollution or resist the affects of acid rain. Which species might be able to resist or control a new insect pest? We simply don't know which species are going to provide an important new agricultural advantage or a medical cure. This is not the time to be allowing our diversity to diminish.

Whether or not one is alarmed by the snail darter case, the legal and statutory circumstances that created that controversy are not relevant to the bill that is being proposed today. It should be stressed, first of all, that similar to the federal

endangered species act, the proposed Connecticut endangered species legislation would not affect private development. As for its affect on state agency projects, it will extend the existing CEPA process to ensure inclusion of threatened and endangered species under its provisions. It will require the Office of Policy and Management, in consultation with the DEP, to balance the effects of a proposed state agency project on a listed species with other consideration. That is if there is a listed species involved and an impact on that species.

Frankly we would prefer to see a stronger procedure in those circumstances, but we realize that not everyone shares the same degree of concern that we have about rare species. The procedure proposed in this bill will provide a means of including some consideration of our rarer species when they are present, in the process of planning state agencies projects.

A major purpose of this bill is to control and try to stop the activities of those we call collectors, the ones who pick rare plants or pursue rare animals for the purpose of adding them to a collection or selling them for commercial use. My organization was founded back in 1898 by citizens who were concerned about the estimated 5 million wild birds who were being killed every year to provide ornaments for women's hats. This nation's history is filled with species that have been severely crippled for the sake of human fad or human excess, and it is still going on.

Just this last month, we heard the case of 11 people who have been responsible for the deaths of 400 black bears in New England over the last few years, so that the bears' gallbladders could be shipped to the Orient for use as aphrodisiacs and medicine. In many cases, the rest of the whole carcass was just left rotting out in the woods.

There were laws under which those people could be arrested, but we don't have any laws at present in Connecticut that could stop people such as the couple in Michigan back in the 1970's who uprooted an estimated 100,000 ladyslipper orchids each year for sale to retailers. Most of those ladyslippers,

many of the wild flowers that we see for sale in catalogs simply will not survive when they are transplanted from the wild.

The bill that is being proposed today would provide one measure, one means of protecting species in the state when their survival in the state became threatened by this kind of human excess of wastefulness. Maintaining diversity is so important to the health of all species that many scientists today consider the current rate of species extinction, which is the fastest rate ever in the history of the planet, to be the most serious threat, other than nuclear war to life on this planet. We here in Connecticut have got to do our part in our part of the globe to stop this threat. If we here won't protect the species and the wonderful diversity that we have within our borders, we cannot very well expect people in other states and other nations to protect their species.

I urge your support for HB7136.

REP. MUSHINSKY: Thank you. Any questions? Steven Blum? Followed by Joyce Wojtas.

STEVEN BLUM: Good morning. I am Steven Blum. I am President of Acme Pest Control Company in New Haven, and I am a licensed pest control operator in the State of Connecticut. I am here to talk against the Proposed HB5478.

This is a bill to ban Roseall. Roseall in tracking powder formulation can be used to control bats under FIRTHA 24c, special local needs permit. Connecticut is one of the 21 states that allow Roseall to be used for bat control, if a colony is a public health threat and mechanical methods are not sufficient.

The generalized wording of the proposed bill would ban Roseall from minor use without realizing the major use of this anti-coagulant rodenticide as mice and rat control usually in a grain bait formulation. Roseall is available to the professional pest control operator and as an over the counter product for the general public. It

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The last but not least is the endangered species bill, and it is my understanding that Commissioner Carothers' concern about endangered species in Connecticut is that the U.S. Fish and Wildlife Service only lists about 10 Connecticut entries as far as those that should be protected, and she would like to do an inventory of what does exist here and is endangered.

Our problem again is the fact that on each and every highway project, an environmental impact statement is done. There have been debates, and they are still going on, as to whether or not in the wetlands areas, for instance, it would be plants and that type of thing. Some of the scientists agree that you can mitigate wetlands and you can bring back all those plants, as long as it is done properly. Others say no. We will be in this battle forever, and maybe we will just put a halt to all the construction in Connecticut, and that will make everyone happy.

If the Committee has any questions, I would be glad to answer them. (cassette one stops here, cassette two picks up in the middle of the question)

(cass 2)
REP. MUSHINSKY: ... endangered species. I mean, we're not talking about halting construction, necessarily, but maybe moving the road a hundred feet west of a plot of Graves Beech Plum or something. I mean do you have to be totally against the bill?

JOYCE WOJTAS: No, but we're already subject to that, though, because we do get involved in Federally funded projects. Now, I know that the last one where they were trying to save wetlands, they were moving, it was a New Britain project, or a project that touched on New Britain, and they decided to move that from the wetlands over through a cemetery and golf course. And of course, that ended up shifting back.

We just get a little bit nervous when we look at what's being done now, in the rules and regulations that come down from both the Federal DEP and the

U.S. Wildlife Service, and wonder, is Connecticut going to end up with another? And remember, endangered species don't have boundaries, so if they're not found here in Connecticut, or if there's only one, they may have blown in with the trade wind.

I think the Committee ought to approach it very, very cautiously before we end up again, with a regulatory mish-mosh that will just slow down projects and up costing the State taxpayers many more dollars.

REP. MUSHINSKY: David.

REP. LAVINE: Joyce, I wonder if you would comment on the regulatory mish-mosh which led to trees disappearing from the, along side of the Connecticut River. It is entirely possible that if we had had another level of review, we would not still see some of those trees making their way down the river and out into the sound.

JOYCE WOJTAS: That's very possible, Representative Lavine.

REP. MUSHINSKY: In all fairness, David, that wasn't Joyce Wojtas' issue.

REP. LAVINE: No, I understand that, but the point here is, that the Department of Transportation should be kept in some way from having another level of review. I'm not suggesting that it is Joyce's group that was responsible. I'm just talking to the point of her defending DOT on this issue. That's my point. Thank you.

REP. MUSHINSKY: Any other questions? Ray? HB 7253

REP. JOYCE: Thank you, Mary. Representative Joyce, the 25th district. I was just wondering, do you have any figures or any studies or any facts about the recycling of asphalt? Is it any better or any worse than the making of new asphalt?

JOYCE WOJTAS: Within the industry, we have a difference of opinion, and of course, a lot of the recycled asphalt cannot be used on State highways and Federal highways because it doesn't meet the

REP. MUSHINSKY: Sid.

REP. HOLBROOK: Yes, I understand that no construction company, no agency and I'm sure no engineer, prefers to build a road across wetland or swamp as opposed to dry ground, but I, sometimes it's necessary to do so, being realistic about it. The question I have to kind of follow up on Representative Lavine's question is, you do have full time environmental engineers, you don't go out and hire consultants. Do you have people on the payroll at the Department of Transportation that are involved in the design process, the review process and the actual inspection process as the project goes along.

DEP. COMM. JAMES SULLIVAN: We have a full time staff of 30 environmentally related specialists in the Department that work on from the IS conception, the location of the project, all the way through the construction monitoring. Their involved in the design, the location of projects, the design elements, if you will, on bridges versus culprits in some instances, the actual development of the mitigation techniques. You might say we could pat ourselves on the back, a lot of the techniques being pushed around are being used now by private industry in Connecticut. Sedimentation erosion was developed by DEP and our staff, we put a major effort into the soil and erosion handbook that's being used right now.

REP. HOLBROOK: There are, these people are, I'm sure aware of endangered species or particularly plant life. When they do a survey of the area, do they look for these things, do they.

DEP. COMM. JAMES SULLIVAN: Why don't we go to my next bill here. We do want to speak to this, although we didn't have a chance to provide you with formal comments, we just got the bill this morning, or maybe late Friday, I got it this morning. On the establishment of the program for the protection of endangered and threatened species. I think Mr. Carothers pointed out, this is not something that's entirely new on the Federal programs and

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even the state has had a list of what they felt were endangered, threatened and endangered species wildlife and plant life.

We as part of the CEPA process, Connecticut Environment Policy Act, when we do our EIS review, go through with them and try to identify early in the process, where these things are to try to avoid them, period. One of the keys to location is to try to avoid as many of things as you can. I think it's been pointed out here that sometimes you can't avoid everything. That's really what it comes down to is a balancing in the end. We're not opposed to the proposed bill for the, concerning the endangered and threatened species.

Some of the problems we have with it is the language. Particularly on the alternatives test of feasible improvement and it's probably one of the problems we have with the state wetland law, is the question of feasible improvement. The genesis of this in the transportation industry came out of Section 4F of the U.S. Transportation Act which talked about parklands. You have to go through this very rigorous test of trying to determine what is feasible improvement. The courts have gone through and tried to determine the language of what is feasible improvement.

We would like to see in anything that's put into state law, a definition of feasible improvement, that's reasonable, that's something that we can all work with. I realize the need, particularly when you're talking about these things, because if you're going to avoid them, it's an alternative test some way or another. If it's early enough and there is a good balancing, it can be done. Joyce brought the idea of the Central Connecticut Expressway and some of the wetland issues that we've had and some Federal agencies telling us to go through and take out six holes of a golf course and go through a cemetery to avoid a wetland. We don't think that was a reasonable testing or balancing of the competing interest.

There are several other areas where this comes up. You can go in and take 70 more homes to avoid the wetlands. That's a very tough issue and it's a very tough issue, we have a lot of problems with

it. Again, as public agencies we require to do an environmental impact statement, private developers, small developers and housing developers and everybody else don't have to do that. That's where we'd like to see the balancing done. All of these state issues, let's bring them all together, balance them and make a decision, rather than three years down the road deciding we'll pick up this issue on endangered species, then three years later we'll talk about wetlands.

You've made a lot of investment, you've made a lot of decisions, let's try to bring them all together and make a good decision. The interesting figure, I heard the person from the Freedom of Information Commission talk about the public disclosure. We've always had an unwritten rule that we would not disclose the location of endangered species, we've always referred to the DEP to let them decide who was going to do that. There were a couple of instances when there was suppose to be a bog turtle and another one was suppose to be a plant and we kind of avoided that issue, even though we mention it in the (inaudible) that was a consideration. That was something we had to consider in balancing the alignment.

The next bill I'd like to speak to is SB476, an act concerning noise pollution. Mobile sources of pollution are listed on their state statute and for some pretty obvious reasons, we feel. Motor vehicles, the emissions from motor vehicles, trucks and cars are presently under the control of the State Motor Vehicle Department as far as excessive noise. That is controlled, there is a statute on the book concerning that and it gives allowable limits. In developing transportation facilities, particularly highways as part of the EIS process again, we do look at noise for major construction, major expressways, where necessary, build noise barriers.

We have and we did for the legislature a couple of years, a list of existing noise locations along expressways where mitigation would be feasible. So far we're down to number 15 on that list, as far as the funding provided. The other issue is the aircraft noise that would be covered by this. Again, the FAA controls the emissions from

88211 is voluntary and totally optional. A farmer can comply and receive the protection and the farmer can take his or her chances. Public Act 211 covers any pesticide used in agricultural production, the bill before you today only covers restricted use pesticides. Public Act 211 and Section 22858 as addressed in HB7134, address different situations.

The Farm Bureau does not believe that there is any need to modify existing record keeping requirements and to mirror that requirement continued in the new law. Connecticut's applicator pesticide use record keeping requirements are adequate and proper and the changes proposed in HB7134 are not needed. Therefore, we ask that you reject this proposal. Thank you.

REP. MUSHINSKY: Do you have written testimony?

JOHN FILCHIK: I have written testimony. It's been handed in and distributed.

: I agree with you reading. This is off base, that's the way the legislature, this committee set it up. (inaudible - not talking into microphone).

JOHN FILCHIK: It's a long process and the bill doesn't even go into effect until July, so we don't want to unravel that.

: You are right. The existing situation is what was established by the (inaudible).

REP. MUSHINSKY: We need to get the old negotiating team back together to redirect this, I think. As much as I hate to say it and as much as I hate to see any of those faces again, ever, it looks like we'll have to reconvene the group. Katherine Colley to be followed by Charles Bernard.

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KATHERINE COLLEY: My name is Katherine Colley and I'm here on behalf of the Garden Club of Middletown which is one of the oldest Garden Clubs in the United States, it goes back to 1916. I should like to say I'm also here, maybe I should be Mrs. Lady Slipper, because the things we're talking about have no representation here, so I'll be a lobbyist

for them. The Garden Club of America, our Club is a member of the two leading Garden Clubs in the United States, the Garden Club of America and the Federated Garden Club. One of the officials of the state is Mrs. Jan Singer from the Federated Garden Club is here with today also.

We wish to speak in favor of the endangered species act HB7136. The Garden Club of America has joined with other national organizations to try to take steps to protect species from disappearing in different parts of the United States. In fact, they have joined with the Department of Agriculture to establish a national seed bank. If DOT's of various states come through and claim that they cannot move their highway, at least the seeds can be collected, and have been by the Corps of Engineers working with Garden Club members and placed in the National Seed Bank for reintroduction in that area when whatever the project is, is completed.

That's a very new thing, but it underlies the importance of the balance of plant life and species life. Several references have been made to the fact that we do not yet know all of the benefits that different plants can give us humans. That's a very important factor, but I think that the balance of nature which creates the air and the food and the water is perhaps even more important. That's the long run benefit to mankind. As you probably know, in South America there has been a lot of destruction of species of plants and some of it funded by the United States through the World Bank.

Now the World Bank is becoming so concerned along with the rest of our executive and legislative branches, that they are looking at new types of funding, mitigating loan debts by allowing them to put the money into re-establishing forests or protecting forests. What about Connecticut? Our State, which is a leader in so many ways, has been very remiss in recognizing that its rampant economic development may be a very short term gain with a terrible price at the end. The last five years have played havoc with the land, with the forest, with the river and shore lines, with the

fields, with the wetlands and it is the uncontrolled development of construction that has done this.

Already several species have been irretrievably lost and unless action is taken now, others are going to disappear, are probably disappearing. I know of one plant, there are only four pieces of it in the State. Although we see some of the costs right now, and the very fact that you're having this hearing, shows that we're getting educated about what the long term loss is. Some of the results will only be evident to our children. This bill is a first step only. It's the minimum effort.

We're asking for a very beginning step of making a list of things that we don't want to lose is certainly only a beginning. It's important. The DOT cannot go into an area and determine if there is an endangered species there if it doesn't have a list of endangered species. There are six plants from Connecticut that are on the National list. There are other plants that exist in other parts of the country but do not exist in Connecticut or are endangered in Connecticut. You might ask, why if they are somewhere else and are gone, why do we have to worry about them here?

As the Ecologists are teaching us, it's the inner relation of the plants, it's the rate salamander that we have here in Connecticut, with the other plants around it that make up a whole. It's important for Connecticut too. This bill I said was only a first step, because all it does is say to a person, you can't go in and dig up a plant on someone elses property and sell it for your personal gain unless you get that persons' permission first. That is not a very forceful way of protecting the plants, but it's a beginning.

It doesn't say anything about a land owner not being able to develop his property totally irregardless of what he may have on that property, that's a treasure for the state, not just for him. We certainly would prefer to see more effective wording in this portion of the bill. However, other parts of the bill deserve very strong support. As I mentioned, we only have six species

listed on the National register, so we must take steps to inventory what else we have that's important to us.

The State needs to establish a list of threatened endangered species and their essential habitats. You can mitigate birds that are endangered by taking their eggs to another area that's somewhat similar and they will hatch. I really don't know of any successful mitigation of endangered plant species. Perhaps there so, but I read a lot and it's certainly rare if it exists. The State needs to put in penalties and I realize that may bog this bill down in the judiciary committee, but I hope you all are skillful enough and will call on us, the public to help you if it gets to that point.

There's big money in these endangered species. Another speaker referred to the fact that the plant catalogs all list rare and very rare and unique plants. Only a few of the major companies are now starting to say whether they have grown those plants in a special area themselves. There is a cry out to all the gardeners of America on the part of the National Garden Club Organization to be very careful about what rare plants you buy without finding out where it came from. The majority are being dug up in the wild. Connecticut is not any exception.

I just want to mention two points that were brought up here today. One is the balancing of the Freedom of Information Act with the keeping a list, more or less, on the q.t. I can only say, if you have a list that's available to the public, you might as well give up on your legislation and not bother going through with it. There is a major industry in Arizona, Texas and New Mexico called Cactus Napping. What it's doing to rate species in the desert is horrifying. I would like to thinks that Connecticut would not join those states in allowing that to happen.

On a personal note, I just want to say that my daughter is an internationally famous Ecologist and Biologist who is working in Central and South America with various governments to try to make them aware of what they are doing when they allow mass burning of their forest lands. Oddly enough,

some of them are starting to turn around and Costa Rica is really a leader for us all. Even Panama and little Belise are beginning to take action to preserve in certain areas, their ecological balance.

I'm really embarrassed to tell my daughter, when she asks me, that our supposedly advanced and very educated state hasn't even taken the first step of making a list of what they do want to keep. This legislature has a great opportunity to catch up with some 24 other states. I really urge this Committee to please take action and call on us if you do need help at any other state during the hearings and other committees.

REP. MUSHINSKY: Thank you Katherine, and we appreciate you're willingness to take on Representative Tulisano for us.

KATHERINE COLLEY: I'm sorry I didn't hear you.

REP. MUSHINSKY: I said we appreciate your offer to take on Representative Tulisano for us.

KATHERINE COLLEY: Well, if that has to be done, as the Lady Slippers Lobbyist, I'm glad to try.

REP. MUSHINSKY: Charles Bernard followed by Frank Capalbo.

CHARLES BERNARD: I have written down here good morning, but I think it's good afternoon. Good afternoon Representative Joyce and Senator Matthews and the Committee. I expected to talk to a full house, however, we'll talk to whoever's left. I'm Charles Bernard from Dooley Avenue in Newington. Our group, the Newington Citizens for Cleaner Environment, talk to you Representative Joyce, Senator Matthews and Representative Balducci about the changes to help eliminate further air pollutions.

HB7253 has been submitted for your approval to change the issuance by the State and DEP to towns and cities. People who live close to business properties are involved and should have the right to express their views as to the effect the permit might have on the air you breathe. Presently,

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I'm speaking in strong support of HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES. And I also would like to go on record in support of HB6474 concerning the natural area preserves.

The Nature Conservancy, an international non-profit organization with over 12,000 members in Connecticut, is dedicated to the preservation of biological diversity. In its 32 year history, the Conservancy has protected more than 16,000 acres of land in Connecticut.

To fulfill its mission of protecting biological diversity, the conservancy works with Federal and State governments, private businesses, and individuals and organizations, conservation organizations throughout the country. Together they work to translate concern about the escalating rate of species extinction into action to safeguard aqui-systems and the rare species in communities they shelter.

For over five years the conservancy has given both technical and financial assistance to DEP in establishing a permanent data base on the existence, location and distribution of rare species and their habitats in Connecticut. Connecticut's natural diversity data base is part of a nationwide natural heritage program with counterpart systems in 48 states.

Last year we also helped DEP acquire 5 acres on Cedar Island, near Hammonassett State Park, that is habitat for the federally threatened piping clover. The Conservancy is committed to continue working with the DEP, and with landowners, to protect threatened and endangered species and their habitat.

This bill is an important tool to accomplish this. It will enable DEP to identify the most critically endangered plant and animal species, and to protect them from the threat of sale to collectors and destruction by actions of State agencies. This is a very moderate proposal based upon two years of research and the experience of 26 other states.

In January, Time magazine, instead of their usual man or woman of the year, chose what they called our endangered planet as the "Planet of the Year". In one major section, they explored the compelling issue of serious extinction around the planet. Scientists estimate the world will lose over one million species of plants and animals by the end of the century.

The article points out, and I quote, "Extinction is the one environmental calamity that is irreversible. As these lowly species disappear unnoticed, they take with them hard won lessons of survival, encoded in their genes over millions of years."

We do not know which of these little known species might provide medicinal or agricultural or other benefits to humanity. We do know that all life forms are interconnected and interdependent. It is time for Connecticut to act now before it is too late to protect our natural heritage.

That is the end of my formal statement, but I would like to comment in regards to the Freedom of Information Issue, that the list will be made public. The list of threatened and endangered species. It is only the actual physical site location that will not be made public, except for specific uses. In other words, the general use would be damaging to it. Thank you.

SEN. MATTHEWS: Thank you very much. We do count on the Nature Conservancy for a great deal.

DOROTHY MCCLUSKEY: Thank you.

SEN. MATTHEWS: Our next speaker is Laura Kezer, followed by Tom Baptist, and then Marshal Case. If you could confine your remarks to three to four minutes, I think it would be helpful because many have been waiting.

LAURA KEZER: I will be brief.

SEN. MATTHEWS: Thank you.

LAURA KEZER: I am Laura Kezer. I am the Director of Mystic Marinelife Aquarium in Mystic, Connecticut. And I am here to ask that, as you're putting together Raised HB7136 to protect endangered, threatened and species of special concern in Connecticut, that you exempt accredited zoos and aquariums within the State of Connecticut.

Inclusion would be redundant, and therefore would provide unnecessary work for us and for the DEP. Any endangered or threatened animal, in a zoo or aquarium, has been obtained through a Federal permit process, under the Federal Endangered Species Act of 1973, administered by the Department of the Interior, Fish and Wildlife Service; or by a permit under the Convention for International Treaty for the Endangered Species.

Further, under Federal law, all animals in zoos and aquariums are protected under the Animal Welfare Act of 1972. At any time, and with no advance warning, zoos and aquariums are inspected under this Act by agents of the Animal and Plant Inspection Service of the Department of Agriculture.

In addition, all marine mammals in zoos and aquariums, have been obtained or transferred under the provisions of the Federal Marine Mammal Protection Act of 1973. This is an extremely rigorous process involving the Marine Mammal Commission, and enforced by National Marine Fishery Service under the Department of Agriculture.

Under the Federal Marine Mammal Protection Act of 1973, which I might point out covers both dead and alive marine mammals, Mystic Marinelife Aquarium is one of a dozen institutions in the United States, which holds the letter of agreement with National Marine Fishery Service. This authorizes us to act as their agent whenever there's a marine mammal washed up dead, injured or in distress of any sort.

Under this agreement, we may, if we deem it necessary, remove the animal from public or private land or water. This would, I believe, be in conflict with Section 9. Currently intertwined with the Federal process, is a program of

accreditation for zoos and aquariums through the American Association of Zoological Parks and Aquariums.

The process of accreditation is extraordinarily rigorous; we not only must be in compliance with all the Federal regulations, but additionally, we must meet stringent guidelines about animal care, breeding, and research programs. As you can see, we are so carefully regulated at the Federal level, that it would certainly be a duplication of effort for the Department of Environmental Protection, to also impose similar regulations. Thank you.

SEN. MATTHEWS: Thank you, Miss Kezer. We'll bring that to the attention of the staff or whoever helps us with our bills.

LAURA KEZER: Thank you.

SEN. MATTHEWS: Thank you. Tom Baptist, followed by Marshal Case.

THOMAS BAPTIST: Good afternoon, Members of the Environment Committee. My name is Tom Baptist and I appear before you today to speak in strong support of HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED SPECIES.

I'm a biologist by trade and a member of the Connecticut Ornithological Association. I also appear before you today on behalf of the Greenwich Conservation Commission. I am also co-author of a book, Connecticut Birds, written on the status and distribution of birds in Connecticut.

Human activity has had a profound impact on the State's environment since the time of colonization. My research has revealed many instances of severe persecution of wildlife in Connecticut. For example, the passenger pigeon was, at the time of colonization, the most numerous bird in North America, but is now extinct.

Estimates of 3 billion to 5 billion are in the literature. This species was subject to intense hunting. In 1874, for example, 700,000 of these birds were killed at a single nesting colony. There are numerous accounts of thousands being shot

in a single day right here in Connecticut. This kind of destruction, in addition to the cutting of oak and beech forest, doomed this species.

Another example is the roseate tern, a species presently threatened throughout its range, and now listed by the Federal government as an endangered species. The largest nesting colony in the State, is on Faulkner's Island, off the Guilford coast. In 1884, the colony was destroyed by a single taxidermist, who sold the plumes for adornments in Victorian parlors and women's hats.

It took nearly 20 years for the colony to recover from this single event. Several species that once resided in Connecticut have, more recently in the last 35 years, been extirpated by human interference. The (inaudible) falcon, the National Emblem, bald eagle, marsh hawk and short-eared owl are but a few species that no longer breed in Connecticut, because of habitat destruction or chemical poisoning.

Other species are presently on the brink of being pushed out of the State. These include piping (inaudible), lease tern, American bittern and long-eared owl.

The proposed bill establishes a reasonable program for the program for the preservation of those species facing imminent extirpation from Connecticut. In my view, the protection of threatened species is vitally important to our own health and welfare. The animal kingdom provides a stock of genetic diversity of which people depend upon for sources of foods and medicines.

New discoveries and advances are constantly being made that cumulatively improve our standard of living. Once a species vanishes, all opportunity for human benefit from that species vanishes with it.

I urge you to support HB7136 like many states which have already enacted similar legislation. I believe there is great merit in protecting and preserving endangered species as part of our

natural heritage for the benefit of our heirs and descendants. Thank you very much for this opportunity to discuss my views.

SEN. MATTHEWS: Thank you, Mr. Baptist. That sounds like an interesting book and information I don't know that we all know. What was the name of the bird that was extinguished?

THOMAS BAPTIST: Passenger pigeon. And there are other examples from Connecticut that are now extinct.

SEN. MATTHEWS: Thank you very much.

THOMAS BAPTIST: Thank you.

SEN. MATTHEWS: Marshal Case.

MARSHAL CASE: Good afternoon. Members of the Environment Committee, I'm Marshal Case, the Vice-President of the National Audubon Society with 23,000 members here in the State of Connecticut, and a half a million nationwide.

I also serve the State of Connecticut as one of the appointed board members of the Connecticut Citizens Advisory Board for non-harvested wildlife. I'm here to support HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED SPECIES.

This has been the highest priority of our Citizens Committee, and we have strongly encouraged the State to establish such a program as pulled together in this bill. In order to establish a benchmark and guidelines for dealing with conservation protection, restoration and enhancement of endangered or threatened species, and essential habitat.

Having been a participant in the treatment of endangered and threatened species in other areas of the United States, I find this bill to be a resonable and effective means to address the complexities of dealing with endangered and threatened species and species of special concern.

As habitat identification and protection is critical to species survival, I'm particularly supportive of the language dealing with essential

habitat. I believe there will be a strong show of support from the general public, including donated property for habitat protection.

I would like to end on a personal note which I believes helps bring species protection into better prospective. Three years ago my wife, Jean Case, died after a nine year battle with cancer. Jean volunteered with Audubon and spoke to over a million children in Connecticut schools during her life here. Jean was given a year of life at the beginning of her diagnosed terminal illness.

However, because of a tiny plant, the periwinkle, and extracts from it, a cancer miracle drug was developed during the early stages of her illness which bought Jean six additional years of life. Habitat protection for gene pool set-asides, can be a great fringe benefit that goes beyond protection for long term stability of individual plants and animals.

I truly believe, as a biologist and a concerned citizen, that guidelines established by HB7136, will serve well all of the citizens of Connecticut, and perhaps, more important, the northeast and beyond. Thank you for the opportunity to speak before you.

SEN. MATTHEWS: Thank you, Mr. Case. I didn't know that about the periwinkle.

MARSHAL CASE: That's part of the Central and South American plants that we're addressing right now with this global problem in dealing with the (inaudible) as was mentioned before, and turning around some of the way that we do business.

SEN. MATTHEWS: I think we're going to go back to the day of the Indian and learn from them.

MARSHAL CASE: Okay. Thanks.

SEN. MATTHEWS: Thank you.

REP. TIFFANY: We have a couple questions. Jack Tiffany. The bill speaks to native species, and I

guess my question is, how do you define native? Is it something that is transported here and becomes native?

MARSHAL CASE: I believe that in the language here, is indigenous. Which means established here in the State. And other biologists can correct me if I'm wrong on this but ones that were established as part of the historical Connecticut lands. Indigenous to this State, to these geographic boundaries.

REP. TIFFANY: In other words, it's been here from time in memorial?

MARSHAL CASE: Well, I may not go that far, but in terms of our historical records of biology. It would not include things that have been imported and established here and there are Federal guidelines that deal with that also.

REP. TIFFANY: Okay. An off the wall example. The gypsy moth. I understand that came here back in the 20's or perhaps before.

MARSHAL CASE: Harvard biologists brought it in.

REP. TIFFANY: That would not be considered a native species?

MARSHAL CASE: No. Although I do believe, as I recall, within these guidelines, there are ways to address species that could be here now that would have been established after the early years of Connecticut, and any historical records that we have, if those were to be found to be of benefit.

REP. TIFFANY: My other question or problem that I have is, the natives that are more of an animal than a plant, but would be considered on the endangered species if it's very rare in Connecticut but found in great abundance in other areas. Another off the wall example, the coyote. Let's say that the western states are paying bounties on coyotes. You're saying that Connecticut should take extraordinary means to preserve the coyote in Connecticut?

MARSHAL CASE: Well, let's an off the wall substitute for the coyote the wolf. The gray wolf or timber wolf. Then yes, I would say that we certainly our Committee would push for the preservation of the wolf in the State of Connecticut while they're still gunning them down in the west.

REP. TIFFANY: Are there actual bounties on gray wolves?

MARSHAL CASE: Well the wolf is an endangered species here in the lower 48 states. It's listed federally. The only viable populations are in the upper Great Lakes, Minnesota, Wisconsin and that area, and of course, Alaska and our northern neighbor Canada have the strong populations.

But because something has a reasonable population somewhere else, but in an isolated proportion, even Alaska, with its vast size, you certainly would want to protect a population of wolves if they existed here in the State of Connecticut.

(cass 3)
the populations had fallen totally away in other New England States. So you need to step in to protect an individual species like that. In the State of Connecticut, for example, even though further to the north it may still have a voluble population, but even somewhat isolated being as Maine is a much more open state and has a lot more to offer biologically to individual species.

The osprey is back in the State of Connecticut because of the reintroduction program from populations that were to the South of here in Maryland. Even though it had a strong hold in the State of Florida, it was certainly our responsibility to step in and turn that situation around here in Connecticut. So I think you have to look...it's like we were speaking to the...you have to look at the big picture and there will be times when we should address species here that may not be endangered in isolated spots somewhere else.

REP. TIFFANY: I have no problem with the National Endangered Species list. It was...that may be an off the wall example that I used of the coyotes, but there are a number of animal species that are

prevalent in other parts of the United States that are very rare in Connecticut. The dairy cow is going to be one of them, I guess.

MARSHAL CASE: Well, yeah, that is an endangered species. That's because the habitats in danger. The price is higher on the land per acre to sell it for development than it is have cows on it, so it's the same problem, whether you are dealing with dairy cows or you are dealing with bald eagles, you are talking about habitat and that's why the language in here that deals with habitat protection is critical. Because, without the habitat you don't have the species.

And as we chop up the state more and more, if we don't have a coordinated effort and we can at least begin to list what we have, whether they have them in Wyoming or not really doesn't make a whole lot of difference. We need to know what we have here in Connecticut and establish the guidelines for giving the reasonable protection to these species. And I think in any of these laws you always have to deal with reason, that's...in the years that I have dealt...I dealt with the Teleco Dam Issue when I was 12 years ago in Tennessee...that was a fairly unreasonable issue, but there are a lot of people who came together on that eventually.

Unfortunately, the Cherokee Indians and the Agricultural lands were the ones that took the brunt of the problem while the snail (inaudible) became the issue through the media.

REP. SAVAGE: Yes. You somehow lose me when we try to restore a species such as the wolf that is a predtorial species and is a quite destructive to our sheep industry and agriculture in general. I just fail to realize the logic in restoring such a species to the State of Connecticut when by your own admission it exists in other areas, so it's not really endangered of extinction as a species. And I don't think that we, in Connecticut, need a wolf population, nor do I think we need a coyote population.

MARSHAL CASE: I wasn't promoting the wolf population. It was an example, if you are going to pick the coyote and another member of that family, we choose

to look at the wolf because there are none in Connecticut and haven't been for a long time and except for the two we have in Sharon in captivity through state permits, I doubt that we will see a wild population again in the State. That was really to look at how you compare a species, not recommend that we have wolves back in Connecticut.

REP. SAVAGE: But if the law is broad enough to protect them, then it loses me.

MARSHAL CASE: Well, part of this is to address what we have here and I think that we know pretty much what's already in the State. Not pretty much, we do know, but these things have to be pulled together on record and you have to wrap something around them for getting into mitigation, whether it's the highway goes through or you lose the Great Blue Heron rookery.

There are a lot of populations of basic animals that are important to all of us for a lot of reasons and this addresses that and up to this point we haven't had any way to deal with this. When you go to public hearings people would pull field notes out of their pockets and get hysterical over the emotion of the issue instead of dealing with facts. And this law establishes facts from which to work and I think that's the great strength of it.

REP. MAZZOTTA: Thank you again, Mr. Case. Any more questions? Our next speaker is Tom Turick to be followed by Joseph Zelensky.

TOM TURICK: Good afternoon Representative Mazzotta and members of the Environment Committee. My name is Tom Turick. I am the Environmental Manager with the Connecticut Business and Industry Association. There are several bills I would like to discuss with you today. Being that many of these bills that we are interested in are, I guess what you could call it, the short form, we're not in a position to oppose or support, but with one exception, HB7253. We do oppose AN ACT CONCERNING AIR POLLUTION CONTROL PERMITS.

REP. CASEY: Mary, question to you since I missed the Senator's comments. Cooling compressions on trucks? Are you talking about the truck and trailer refrigeration equipment?

REP. MUSHINSKY: Yes. His comments are in writing. He did not appear.

REP. CASEY: I would suggest that there are two major manufacturers of those particular products. One is called Thermioncing and the other one is one that is a United Technologies subsidiary and if they should be within the defined limits of the laws that pertains to noise.

REP. MUSHINSKY: His testimony explains why they are not...you can take a look at it at your leisure.

REP. CASEY: Thank you, I will.

REP. MUSHINSKY: Bob Crook followed by Betty McLaughlin.

BOB CROOK: Good afternoon. My name is Bob Crook. I am Executive Director of the Connecticut Sportsmens Alliance representing 165 sportsmans clubs, 40,000 members statewide. The first bill I would like to testify in support of is SB705. Basically we supported the non-game species in the past. This is the sale of wildlife stamps and prints and other items. The only comment I would like to make on that is if somehow we could get the money to go into non-game, rather than the General Fund, we think that would be more appropriate.

The second bill I would like to testify in support of is HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES. We have supported endangered and threatened species in the past and clearly this act is needed to supplement Federal legislation. We do, however, have some concerns and propose and will propose substitute language. Our major concern is to eliminate any potential conflict within the DEP itself. Clearly this bill provides increased authority of a Natural Resources Center and a Natural Diversity Database concerning classification.

While we have no problem with classification authority, in the natural resources center, in their demonstrated areas of expertise, which are plants, insects and natural structures...

(Gap between cass 3A and 3B)

Thank you.

REP. MUSHINSKY: Betty McLaughlin, followed by Jan Fenger.

BETTY MCLAUGHLIN: Good afternoon Senator Spellman and Representative Mushinsky...

(cass 4) (cass 3 does not connect with cass 4) environmental organization whose purpose is to protect, preserve and enjoy the natural places of the earth. And whose goals are to preserve the natural land and open space to conserve natural resources, to maintain the quality of our air, water, land and oceans and to clean up pollution.

We urge your support of HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES. Both the medical and agricultural communities recognize plant and animal species to be vital genetic resources which are of indisputable service to human kind.

Natural predation provides pest control without dangerous pesticides and controls over population. Habitat protection will allow the naturally occurring biological, interdependence between species to flourish. At these basic utilitarian levels then these life forms must be considered among our most valuable natural resources.

In a greater scope all living beings should be afforded their natural habitat with minimum intrusion. We support the establishment of a protection program for Connecticut because Federal extinction laws do not address the problem of declining species populations within a state boundary.

State legislation is needed to see that Connecticut's populations are protected and maintained. This legislation gives Connecticut the opportunity to join the 26 other states which have endangered species laws.

Last summer, the Sierra Club, Connecticut Chapter, sent a written environmental issue survey to every candidate for the offices of State Senator and State Representative. Of the total respondents, 104 are now Connecticut State Legislators. These Legislators were asked to comment on the following statement. "Some species of plants and animals which are not on the Federal endangered species list are nevertheless becoming rare or endangered in Connecticut. Insuring their survival may necessitate regulating development in their habitats. There should be legislation to encourage such regulation".

93% of Connecticut's legislators responding to the survey, either agreed or strongly agreed with this statement. Since the proposed legislation is significantly less restrictive than our original survey suggested, it would appear that a huge majority of legislators would endorse a state specific program to protect endangered species. We urge the Committee to support such as program for Connecticut.

REP. MUSHINSKY: Thank you. Questions? Jan Fenger followed by Sue Merrow.

JAN FENGER: Senator Spellman, Representative Mushinsky other members of the Committee. My name is Jan Fenger, I am the Board of Directors of the Federated Garden Clubs of Connecticut. We would like to go on record as being in favor of endangered species bill, HB7136, which is being considered by this Committee.

The Federated Garden Clubs has over 8,000 members. There are garden clubs in most of the towns of the State. Most of these clubs are made up of volunteers, have been in existence for over 50 years. Because of our knowledge of plants and

growing plants we are very much aware of the approximate hundreds of specimens whose numbers are limited, the so called endangered species.

We believe that every effort should be made to protect these plants. We have studied the proposed bill and feel that it is a reasonable one. Therefore, we urge a favorable report by this Committee. And I would like to comment myself, having sat here most of the morning and part of the afternoon, that more and more you find that garden club ladies, the ladies with the tennis shoes and the big hats and the baskets of flowers who have done much to improve the places we all live are getting concerned about what is going on with their State.

I think that we will find that more and more they are coming out, putting on their high heels, coming to the City and are going to talk in favor of issues such as these because we see what's going on in our communities, we are out of the grassroots, we work to improve our communities and we also see how things are changing. Thank you.

REP. MUSHINSKY: I just want to comment. I worked with you on the bottle bill.

JAN FENGER: No, no. You didn't work with me.

REP. MUSHINSKY: I didn't work with you personally, but with the Federated Garden Clubs. They were awesome in that legislators were reluctant to sit down and meet with them because they were like an angry hornet's nest. They did a tremendous job getting that bill passed and they did have a network in just about every town in Connecticut.

JAN FENGER: We are also very much responsible in putting the planting in the Merritt Parkway. The diversity of the planting and we are very interested in the bill that is coming up now to allow people to work with it.

REP. MUSHINSKY: Thank you. Sue Merrow followed by Harry Harris.

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PUBLIC SAFETY. HB6239 (COMM) AN ACT INCREASING THE FEES FOR PERMITS TO SELL AND CARRY PISTOLS AND REVOLVERS.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

EDUCATION. Substitute for HB6614 (COMM) AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION.

The bill was then referred to the Committee on Government Administration and Elections.

EDUCATION. HB6772 (COMM) AN ACT CONCERNING AUTHORIZATION OF BONDS OF THE STATE FOR RIVERFRONT DEVELOPMENT AT THE OLIVER ELLSWORTH HOMESTEAD IN WINDSOR.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

ENVIRONMENT. Substitute for HB6998 (RAISED) AN ACT CONCERNING DOG LICENSING AND THE SEIZURE OF DOGS WHOSE OWNERS FAIL TO COMPLY WITH QUARANTINE AND RESTRAINING ORDERS.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

ENVIRONMENT. Substitute for HB7136 (RAISED) AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES.

The bill was then referred to the Committee on Government Administration and Elections.

PROGRAM REVIEW AND INVESTIGATIONS. Substitute for HB7143 (RAISED) AN ACT IMPLEMENTING THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE'S RECOMMENDATIONS ON THE USE OF CONSULTANTS BY STATE AGENCIES.

The bill was then referred to the Committee on Government Administration and Elections.

PROGRAM REVIEW AND INVESTIGATIONS. Substitute for HB7201 (RAISED) AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CRIMINAL JUSTICE INVESTIGATION RELATED TO THE DIVISION OF CRIMINAL JUSTICE.

The bill was then referred to the Committee on Judiciary.

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HOUSE

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DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will read the tally.

CLERK:

HB6614, as amended by House Amendment Schedules "A" and "B".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	136
Those voting Nay	12
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

The Clerk please return to the Call of the Calendar.

CLERK:

Page 7, Calendar No. 479, Substitute for HB7136.

AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES.

Favorable Report of the Committee on JUDICIARY.

REP. MUSHINSKY: (85th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky of the 85th.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

The motion is on passage. Will you remark?

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. This bill expands the program in DEP that identifies and protects endangered or threatened plants and animals. Specifically, it does five things. First, it reaffirms the commissioner's authority to acquire land essential to endangered species and to enter into agreements with other organizations for management of essential habitat.

Second, it requires the DEP to adopt regulations to identify and list endangered or threatened species.

Third, it adds habitats to the existing species' location disclosure exemptions in the Freedom of Information.

Fourth, it prohibits state agencies from destroying or threatening endangered or threatened species' habitats unless they are specifically granted an

exemption.

And fifth, it establishes an Advisory Committee to advise the DEP commissioner on aquisition and operation of nature area preserves.

This bill is important to prevent the loss through development and other adverse uses of about 30 to 40 animals in Connecticut and about 100 plants in Connecticut, including some you may have seen on the news, the piping clover, the listern, the long-eared owl, the Hartford fern, which is no longer found in Hartford, and the small world begonia.

It's important to note, Members of the House, that this is principally a state agency bill. It does not affect landowners. Landowners are exempted from the bill if they incidentally take one of these species or if someone takes one of these species from the landowner's property with his written permission. Because it is a state agency bill only, there's only modest protection for the species. Still I would urge your support for this modest step forward. Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill? Will you remark further on the bill?

REP. KRAWIECKI: (78th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. Madam Speaker, the Clerk has an amendment, LCO7056. Would he please call and may I be allowed the opportunity to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO7056 which shall be designated House Amendment Schedule "A".

CLERK:

LCO7056, designated House Amendment Schedule "A", offered by Representative Krawiecki of the 78th District.

DEPUTY SPEAKER POLINSKY:

Is there objection to summarization? Seeing no objection, please proceed, sir.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. Members of the House, what this amendment does is deletes what is commonly referred to as enabling paragraph, Section 1 of the bill and then renumbers the bill accordingly. I would move adoption of the amendment and ask permission to speak, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption of House Amendment

Schedule "A". Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Members of the House. The deletion of Section 1 does nothing to undermine the bill at all. It's been my experience over the years that I've been in this Chamber that this Chamber and the legislature in general has tried not to place these kinds of findings into our state statute. It serves no purpose whatsoever.

It is simply a move to clear up the statute over the years. Representative Moynihan had offered numerous amendments of this variety. I'm swayed by his arguments that it makes no sense to include these types of things and I would urge the Chamber to adopt the amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "A"? Representative Mushinsky.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. I rise to oppose the amendment. Occasionally, for significant environmental policy it is appropriate to put a statement like this in the statutes. We did it for the Inland-Wetlands Act, for example.

In this bill we specifically use Section 1 to give guidance to the commissioner on how to write her regulations. It's in lines 193 to 194. I would like to leave that guidance in there and I ask you to help me reject this amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "A"?

REP. FUSCO: (81st)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Hold one minute. Representative Mushinsky, did you want to add something?

REP. MUSHINSKY: (85th)

The House is kind of empty, Madam Speaker. When the vote is taken, I ask that it be taken by role.

DEPUTY SPEAKER POLINSKY:

The question is on a roll call vote. All those in favor of a roll call vote please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

When the vote is taken we will surely have a roll call. Representative Fusco.

REP. FUSCO: (81st)

Madam Speaker, I reluctantly rise to oppose the amendment. Just through personal experiences with dealing with environmental concerns within my district, as a lay person, it's often very helpful when referring to statutes that concern issues that happen during your district to read the sections of what the intent of certain philosophies and policies are in paragraphs such as our question in the amendment and I just find from the point of view of a lay person that it's very helpful in determining which direction to go in assisting not only your constituents but your local boards who oversee inland-wetlands and things of that nature and I find it very helpful, so that's why I'll be voting against the amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"? Representative Bertinuson.

REP. BERTINUSON: (57th)

Madam Speaker, I also rise in opposition to this amendment. I know this is an ongoing controversy as to whether we should put in findings or not, but I do agree that I have seen cases where they have had regulatory agencies say that at times it has been helpful to them to be able to point to the clear wish

of the General Assembly spelled out in findings like these and that they have been able to use those in forcing a regulation, so I would ask that we reject this amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "A"? Representative Farr.

REP. FARR: (19th)

Madam Speaker, this may seem like more of a formal or substance type of debate, but I think it is a significant debate. The reality is that we have -- our Connecticut General Statutes generally do not have these type of preambles. To argue that it would be helpful to the public, before every section we had some plain language that explains what we were hoping to do, means that really we ought to go back and rewrite all of our statutes, instead of 22 volumes, we can have 48 volumes and we can put in language that says what we really hope to do, but if we want to do something, the better way to do it is to simply, in plain language, write a statute that does it, instead of having to put a preamble that says this is what we hope we've done and then put a language that purports to do what you hope you have done.

There is nothing in this section that in any way

sets up priority or sets up any real guidance to the commissioner. In some of our other sections we have put in preambles. I haven't particularly liked them, but sometimes we set up a preamble and we say, this is the priorities. This is what we want and the commissioner be guided by, but what would he be guided by, by reading this? Clearly the bill, simply by its title, tells him what we're attempting to do. We don't need Section 1. All it does is just add greater length to our statute and it ought not to be there. I think it's a mistake to do it.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "A"?

REP. GORDES: (62nd)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Gordes.

REP. GORDES: (62nd)

Madam Speaker, thank you. I don't mean to prolong this debate. I stand in opposition to this amendment, but finding something, shall we call it a preamble, to a section, quite useful, so I would say it should stay in and I would cite that within the last few years I have used one preamble, which I always carry around

with me which is 16(a)-35(k), the preamble to the Connecticut Energy Policy Act, which starts out much the same way.

I have used this when the legislature found that the farmers were being done wrong by the DPUC and becoming an intervenor before that body quote right from this piece of paper why they were breaking the general Energy Policy Act of the state and I would also point out that if there are proposals still on the table for a utility tax somewhere lurking in the haunts, I would probably use it again in regards to that.

I find such preambles set a basic statement. I find it useful. I agree we don't want to litter the books with what might be considered unnecessary, however, in having used in a practical manner, I find it a necessary tool. Thank you.

DEPUTY SPEAKER POLINSKY:

Representative Ward.

REP. WARD: (86th)

Thank you, Madam Speaker. Madam Speaker, my support for the amendment and rejection of the preamble is because it's precisely that. It means on every occasion now where somebody thinks the bill is that important that they ought to give a speech with it,

they'll put the speech at the beginning of the act so that it's there in print so that they can show it to everybody and say, "See the good thing we did." The good thing we did ought to be carefully drafted legislation, not flowery speech language attached to the bill. That's fine for here in the debate on the floor of the House. You know, in Washington they do that. You'll see all kinds of acts, the Code of Federal Regulations, I'm sorry, the United States Code is covered with that. It doesn't make it easier to read. It doesn't make it easier to understand. It makes a lot more volumes to say very little and I don't think they're any more effective, in fact, far less effective as a legislative body than we are, but if you want to go down this path that we're starting, fine, I'm sure that we can draft on most of our amendments good, nice speeches to go with them and you'll begin to see that because that's the policy we're setting here.

We've done it once or twice before. I think it was a mistake. It's wrong to continue it. The amendment should be adopted.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. I regret that the Chairman of the Committee had asked for a roll call vote. I think this is clearly one of those times where that's jumping in a puddle when you don't need to get wet, but I'm going to simply comment to the Chamber that please be prepared every time there is an amendment, and I'm asking them to be redrafted at this point, dealing with prison overcrowding. I happen to think that is one of the most serious issues this state is facing. Whether or not we allow early release of prisoners, that's certainly an issue that I think is at least as serious as this issues is.

I have no problem whatsoever with the bill, but these kinds of preambles do nothing in the state statutes. The state statutes provide law. They provide information for people to understand what the State of Connecticut and the legislature makes as law. If they want to know what our intent is, come back and read the transcripts. The court is not going to rely, quite frankly, on what we put in a preamble to make a decision as to what our legislative intent was. It makes no sense. It really makes no sense to have preambles and if we're going to persist in that, I suppose now we're setting a new direction and I

think, you know, there are going to be an awful lot of legislators that believe very strongly in their pieces of legislation, whether it be any of the bills on today's Calendar or the ones that are going to be on tomorrow's Calendar.

I think we set a terrible precedent and I know we're going to have an amendment back in here on somebody else's bill to take away preambles so, you know, why do we start it at this point. I agree with the bill. I have no problem with the bill. I think it's necessary legislation. The preamble makes no sense.

REP. FRANKEL: (121st)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Frankel.

REP. FRANKEL: (121st)

Yes, Madam Speaker. Representative Krawiecki makes a point that I in part agree with. I generally feel that we should avoid preambles in connection with bills, but I disagree that this is without precedent. I think there are numerous statutes in which we are addressing broad and sweeping questions and we have on those particular occasions decided to have preambles. I think we have had preambles in connection with

matters dealing with, I believe, tidal wetlands. I think there's a broad sweeping preamble to that.

There are other statutes that have them. I think the question before the Chamber should really be put, is this particular issue deserving of a preamble or not? That really should be the question, not whether we are setting a precedent. I think in some cases it's justified. In other cases it is not and I think what the Chamber should ask themselves is whether in fact this is one of those situations in which we should have a preamble. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "A"? Representative Farr.

REP. FARR: (19th)

Madam Speaker, I'd just like to comment that I think the decision is not whether the issue warrants a preamble, but whether the preamble adds anything to the bill. That ought to be the decision. In some cases we have preambles that indeed provide guidance. For example, we have -- in some areas we have had priorities and we have said this is the priority list that the commissioner ought to be guided by. There is no such thing in this preamble. The preamble simply says that it is our goal to establish a program for the

protection of endangered and threatened species and to protect them. Well, that's what the title says. We don't have to repeat that in the preamble.

I think this is a classic case where the preamble is nothing more than a restatement of the title and, frankly, a speech in behalf of the bill and we ought not to put that in the statute.

DEPUTY SPEAKER POLINSKY:

Representative Bertinuson.

REP. BERTINUSON: (57th)

Madam Speaker, speaking again in objection to the amendment, I think there somehow seems to be a feeling that this is something new that we're doing, that we're going to start a new trend. It's environmental law, in particular, I've just -- in a quick looking through I found three instances where we do have legislative findings. They are not in any way significantly different from the findings in this bill and they set forward a policy, a broad approach to a subject, and as I say, have been used in hearings and in regulatory actions as a backup to show the clear intention of the state, which isn't always spelled out in the letter of the law, so I, again, would urge that we reject this amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Nania.

REP. NANIA: (63rd)

Thank you, Madam Speaker. I find this debate very interesting and clearly there seems to be no authority as to whether a preamble is or is not permitted under Connecticut law and the Majority Leader makes the following argument, that sometimes a preamble is a good idea and sometimes it's not and he argues for flexibility from case to case.

However, to date no rule or standard of any sort is articulated by the Majority Leader other than this is our preamble, one of our guys did it, or at least that's the conclusion I draw, and through you, Madam Speaker, I would pose a question to the Majority Leader.

DEPUTY SPEAKER POLINSKY:

Representative Frankel, prepare yourself. Please proceed, sir.

REP. NANIA: (63rd)

Representative Frankel, through you, Madam Speaker, on what basis are we, as a House or as individual legislators, to decide when or when not a preamble is acceptable?

REP. FRANKEL: (121st)

Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed.

REP. FRANKEL: (121st)

First, let me correct a presumption that you had in connection with my statement. I did not suggest that this was deserving of a preamble or that this preamble was appropriately and next to the rest of the bill. I merely indicated, as you articulated, that indeed it's a case-by-case basis. On what basis do we decide? I can't tell you that I'm going to make a pronouncement as to how you ought to judge. I think each member has to judge whether indeed a preamble is in order and you have to look into your own reasoning as to determine whether indeed you think it's appropriate or not.

DEPUTY SPEAKER POLINSKY:

Representative Nania.

REP. NANIA: (63rd)

Thank you, Madam Speaker. Then I would like to ask the Majority Leader a much more difficult question. Based on the subject matter of this bill, on what basis do you find this preamble as it relates to this bill important to this legislation? In other words, I have not heard a single reason proposed why in this particular case, if we are going to be flexible, not only a preamble, but this preamble is necessary.

REP. FRANKEL: (121st)

Through you, Madam Speaker, I have made no such indication as to whether I believe it is or is not.

DEPUTY SPEAKER POLINSKY:

Representative Nania.

REP. NANIA: (63rd)

Then I would conclude that there is absolutely no reason given by any proponent for the merit of this particular preamble, through you, Madam Speaker.

REP. FRANKEL: (121st)

Through you, Madam Speaker, that's an inappropriate conclusion. I merely indicated that it is my -- at least so far as I have articulated my position, I have not indicated any position on my behalf.

DEPUTY SPEAKER POLINSKY:

Representative Nania.

REP. NANIA: (63rd)

Thank you, Madam Speaker. Well, the allegation is made that it has merit, but no reasons are given. I don't have any particular predilection one way or another on this issue, but I'd like to hear if someone is in favor of it, the reasons why it ought to be here as related to the bill.

I'm delighted to hear that preambles are acceptable based on merit and no standard because I'll be sure to

add a few at my next opportunity. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir.

REP. MUSHINSKY: (85th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky of the 85th.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. Representative Nania may not have been in the Chamber when I explained that in the bill we used the preamble to give guidance to the commissioner on how she should write her regulations, that's in lines 193 to 194.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the amendment, House "A"? Representative Ward.

REP. WARD: (86th)

Madam Speaker, several people have commented that it should help the commissioner in writing the regulations and that in the past that's been done in Environment. Just an observation in the five years I've been in Regs Review that some of the latest regulations we've received, those may be two years after they were supposed to be there. They have come

from Environment Protection and perhaps without all the extra guidance, they could get through that and get the regulations in on time.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Further remarks on House Amendment Schedule "A"? Further remarks on House Amendment Schedule "A"? If there are no further remarks, members please take their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. All members to the Chamber please. The House is voting by roll call. All members to the Chamber.

DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

House Amendment "A" to HB7136

Total Number Voting	148
Necessary for Adoption	75
Those voting Yea	39
Those voting Nay	109
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

House Amendment "A" fails.

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House Amendment Schedule "A".

Delete section 1 in its entirety and renumber the remaining sections accordingly.

In lines 182 and 216, strike "4" and insert in lieu thereof "3"

In line 193,1 insert a period after "enforcement" and strike "and further the policy"

Strike line 194 in its entirety

In lines 237, 244, 295, 316, 323, 331, 385, 416 and 556 strike "10" and insert in lieu thereof "9"

In line 298, strike "8" and insert in lieu thereof "7"

In lines 349, 529 and 569 strike "9" and insert in lieu thereof "8"

In lines 440, 473 and 503 strike "3" and insert in lieu thereof "2"

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DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill? Will you remark further on the bill?

REP. BELDEN: (113th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Belden.

REP. BELDEN: (113th)

Thank you, Madam Speaker. I hope we'll do better than the last amendment. The Clerk has an amendment, LCO6944. Could the Clerk please call and read.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO6944, which shall be designated House "B" and will the Clerk please read.

CLERK:

LCO6944, designated House Amendment "B", offered by Representative Belden.

REP. BELDEN: (113th)

Madam Speaker, I move adoption.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption of House "B". Will you remark? Representative Belden.

REP. BELDEN: (113th)

Thank you, Madam Speaker. This amendment deals with the section where the commissioner in conjunction with the Secretary of OPM can make exemptions to the law. The way the file is written, it would appear that the commissioner would have to positively consider each of four specific requirements that are outlined and I suppose if one of those was not met in some way that no exemption could be given, and I think what the

amendment does, it allows the commissioner to consider those four factors in granting an exemption. That is the change.

I suppose some could say that I am attempting to gut the bill. What I'm attempting to do here is to develop and even playing field that will allow us, hopefully, to protect those species which may be endangered while still attempting to meet the needs of all of the various segments of our state development and activity. It's not meant to gut the bill. It's meant to, I hope, establish an even playing field so that when or if a situation does arise, that there is some flexibility on the part of the commissioner and the Secretary of OPM to resolve the problem and I urge support of the amendment. Thank you.

DEPUTY SPEAKER POLINSKY:

The motion is on passage of House "B". Will you remark further? Representative Mushinsky.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. Representative Belden is correct. It makes a good bill better and I hope you will support the amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House "B"? If not, let's try our minds. All those in favor of House "B"

please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

The amendment is adopted and ruled technical.

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House Amendment Schedule "B".

In line 257, delete "An exemption may be granted if" and insert in lieu thereof: "The commissioner may grant an exemption after considering the following factors:"

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DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Winkler.

REP. WINKLER: (41st)

Yes, thank you, Madam Speaker. A question, through you, to Representative Mushinsky.

DEPUTY SPEAKER POLINSKY:

Please proceed, Madam.

REP. WINKLER: (41st)

With the Mystic Aquarium in our area, I have a question. Some institutions have an agreement with the National Marine Fishery Services to take responsibility for beach stranded marine mammals. This can include both an on site assistance and removal of the animal to the aquarium for treatment. Will this bill allow this activity?

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. Through you, Representative Winkler, as per Section 16 of the bill, if these institutions already have their federal permits, and in your case I know they do, they are thereby exempted from the DEP permit procedure for all regulated species. That's in current law and the regulations for this bill would follow that same practice and so if they have their federal permit, they're okay.

REP. WINKLER: (41st)

Okay, thank you very much.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended? Representative O'Neill.

REP. O'NEILL: (69th)

Madam Speaker, I believe the Clerk has an amendment, LCO7086. Would he please call it and may I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO7086, which shall be designated House Amendment Schedule "C".

CLERK:

LCO7086, designated House "C", offered by Representative O'Neill.

DEPUTY SPEAKER POLINSKY:

Is there objection to summarization? If not, please proceed, Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Madam Speaker. The purpose of this amendment is to allow the Commissioner of Environmental Protection to create regulations which would prohibit or limit the use of ivory either in a raw form or the manufactured products from ivory with the objective being to help protect from extinction African elephants.

These regulations would only be issued upon a determination by the commissioner that the trade in these products in the State of Connecticut constitutes a threat to the continuation -- continued existence of the African elephant.

May I be allowed to speak? I move adoption, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Sir, have you moved adoption?

REP. O'NEILL: (69th)

I'm trying to. I move adoption now, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Will you remark further? Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Madam Speaker. I think that there's a widespread understanding that the African elephant is a severely endangered species in the world at the present time. In most parts of Africa the elephant is protected. The only known enemy of elephants, so far as I know, are human beings who have a particular desire for their tusks, which are a very unique product, but which -- the taking of which causes the death of the elephant.

While most African elephants are protected, harvesting is permitted of some of them and the result is that there is poached ivory and unpoached ivory and the two are indistinguishable once they enter the ivory trade.

The fact of the matter is that if African elephants

are not given some degree of protection by the people on this planet, there won't be any African elephants probably by the end of this century. If the elephants are allowed to grow old, the herds become enlarged and then the elephants die of natural causes. The actual production of elephant ivory is supposed to increase to the point that it will be larger than the amount of ivory that's currently being taken by the poachers.

So I would urge everyone in this Chamber to support this amendment, which while it is not an endangered species here in the State of Connecticut, it's something that we can help to protect by refraining from using the products created by those elephants. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

You're welcome, sir. Will you remark further on House Amendment Schedule "C". Representative Mushinsky.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker. It's true, the elephant is not indigenous to Connecticut, but this is a good amendment and I hope you'll support it.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment Schedule "C"? Representative Holbrook.

REP. HOLBROOK: (35th)

Madam Speaker, I just wanted to know maybe, a Parliamentary Inquiry, I wonder if you could advise us, since we are Republicans and in as our symbol whether we should exempt ourselves or not due to conflict of interest.

DEPUTY SPEAKER POLINSKY:

That shall remain unanswered. Further remarks on House Amendment Schedule "C"? Further remarks? Let us try your minds. All those in favor.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The amendment clearly passes and shall be ruled technical.

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House Amendment Schedule "C".

After line 655, insert the following and renumber the remaining sections accordingly:

"Sec. 20. (NEW) If the commissioner of environmental protection determines that trade in Connecticut of raw elephant ivory or products manufactured or derived from elephant ivory contributes to the extinction or endangerment of elephants, he shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes to regulate such trade."

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended? Will you remark further? Representative Young.

REP. YOUNG: (143rd)

Through you, a question for the proponent of the bill.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky, please prepare yourself. Representative Young, please proceed.

REP. YOUNG: (143rd)

Representative Mushinsky, I'm a little bit confused about how the relationships between the DEP Commissioner and the Department of Transportation, let's say, would operate in this -- after the passage of this bill, and I totally support the passage of the bill, so this is not an antagonistic question. I just wondered if you could explain to me what would happen in the instance of an endangered habitat being in -- somewhere down the line in the site line of a proposed road or road extension? What would happen?

REP. MUSHINSKY: (85th)

Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky.

REP. YOUNG: (143rd)

Through you, I'm sorry, Madam Speaker.

REP. MUSHINSKY: (85th)

Thank you, Madam Speaker, through you, the process in the bill is designed to work parallel with the SEPA process which DOT already has to follow and the OPM, in consultation with DEP would make the decision whether or not the agency project has enough of an effect to require a SEPA statement.

Now if it was the case, then OPM would have to determine if there were practical alternatives to the project or if the project would significantly threaten the continued existence of a listed species if the benefits of the project do not clearly outweigh the alternatives if the applicant is not planning reasonable mitigation efforts.

So there's a step-by-step procedure that is covered in Section 8 of the bill.

REP. YOUNG: (143rd)

Then through you, Madam Speaker, just to clarify, then the procedures are essentially the same as those would be in place now for wetlands or other situations in road building, is that correct, through you?

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky.

REP. MUSHINSKY: (85th)

Through you, Madam Speaker, they're the same as the existing Connecticut Environmental Policy Act process, which is in the statutes 22(a)-1 through 1(h).

REP. YOUNG: (143rd)

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Representative Bolster of the 137th.

REP. BOLSTER: (137th)

Thank you very much, Madam Speaker. Through you, I have a couple of questions that I would also like to ask of the proponent of this legislation following after Representative Winkler's question.

DEPUTY SPEAKER POLINSKY:

Please proceed.

REP. BOLSTER: (137th)

Currently under the Marine Mammal Protection Act institutions such as zoos and aquariums can apply for a permit provided they offer a program for education or conservation purposes as a component of their overall program. This permit allows them to take and keep an animal for public display or for research. Sometimes these animals are taken from beaches where they have stranded and it is conceivable that Connecticut might place such an animal on its endangered species list.

Will this legislation allow such a taking after it has been authorized under the Marine Mammal Protection Act?

REP. MUSHINSKY: (85th)

Madam Speaker, through you, the same answer was given to Representative Winkler. It's referred to in Section 16 of the bill. The section refers to the scientific educational, biological and zoological facilities and as long as they have their federal permits, they would be all right.

REP. BOLSTER: (137th)

Thank you. I have another question, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed, Representative Bolster.

REP. BOLSTER: (137th)

Many of our zoos and aquariums also are the only facilities who have the capacity to take care of wildlife and treat them and hopefully rehabilitate them. I assume that this act is not going to hinder that activity.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky.

REP. MUSHINSKY: (85th)

Through you, Madam Speaker, again, if they have their federal permits, they don't also have to have the

state.

DEPUTY SPEAKER POLINSKY:

Representative Bolster.

REP. BOLSTER: (137th)

Thank you, Madam Chairman. I've got one more. Mostly this is being done so that people don't think that this is some kind of a "Sue and Sam," but we do have -- I have the Norwalk Maritime Center, much as Representative Winkler has the Mystic Aquarium. We also have other zoos, arboretums and, yes, Beardsley Park, as Mr. Grabarz is waving over there and many of them are concerned and they want to be sure that they aren't going to have problems.

I know that our Environment Committee has assured them that they won't have problems, but this way it'll be on the record, so if anybody asks in the future and if you will forebear with me, I'll have one more question.

Zoos and aquariums are occasionally in a position to preserve individual members of species which may be endangered. Many times these animals and plants help illustrate the need for conservation and are an important component of educating the public. Will this legislation allow such activity?

REP. MUSHINSKY: (85th)

Through you, Madam Speaker, once again, the answer is if they have their federal permits, the DEP regulations will follow the same practices in current law. They will not also need a DEP permit.

REP. BOLSTER: (137th)

Thank you very much, Representative Mushinsky. I'd also like to at this time, Madam Speaker, support this legislation. I have felt for many, many years that we should be taking a little bit better care of this fragile earth on which we live and it's really big enough for all of us, man and critters and plants and we have to learn how to spread the room around and make way for everyone and in the long run I think this is going to make us a better world and I think that this legislation will make us a better state. Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended? Representative Taylor.

REP. TAYLOR: (79th)

Yes, Madam Speaker. Through you, if I could, I'd like to ask a question of Representative Mushinsky.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky, you're very popular this evening. Please proceed, Representative Taylor.

REP. TAYLOR: (79th)

Thank you, Madam Speaker. Representative Mushinsky, a question that was raised by Representative Young has piqued my interest. In the course of, say, as he related a transportation project and in the course of doing the environmental impact study you determine that there was going to be an impact on, say, the nesting place of a plover or whatever an environmentally -- an endangered specie is. At that point would this new process take place that the Office of Policy and Management would have to then be consulted and if it's determined that an alternative can take place, that could be done and if there is no alternative, they would get an exemption, through you?

REP. MUSHINSKY: (85th)

Through you, Madam Speaker, if the OPM determines that there are practical alternatives to the project or if the OPM determines the project would significantly threaten the continued existence of a listed species, and if DEP then determined that the benefits of the project do not clearly outweigh the alternatives and the action is not of regional or statewide significance or the applicant is not planning reasonable mitigation efforts, then and only then a project could be stopped.

The birds are hard to move, but for many of these endangered species, they can be relocated to another

area in the state.

REP. TAYLOR: (79th)

Madam Speaker, through you, again, Representative Mushinsky, I think what I'm determine is, is this a new additional review because of the fact that these are endangered species and we must take an extra ounce of prevention to make sure that they survive? That's my question.

DEPUTY SPEAKER POLINSKY:

Representative Mushinsky.

REP. MUSHINSKY: (85th)

Through you, Madam Speaker, it's an existing -- it's an extension of the existing SEPA process. There is already a broad environmental review under SEPA, for example DOT projects, but we're adding another fact to SEPA which covers endangered species.

REP. TAYLOR: (79th)

Thank you, Madam Speaker. That's what I thought that we were getting at. This is just an extension of an existing process because we do have species that are endangered and we should take an extra look at that process to make sure we do all we can to protect them and if that's a true characterization of Representative Mushinsky's remarks, I also support the bill.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended? Will you remark further? If not, will members please take their seats. Will staff and guests please come to the well of the House. Will staff and guests please come to the well of the House. Will staff and guests please come to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members kindly report to the Chamber. The House of Representatives is taking a roll call vote. Members to the Chamber.

DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

HB7136, as amended by House Amendments "B" and "C".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

The Clerk please return to the Call of the Calendar.

CLERK:

Calendar 488, Substitute for HB7195, on Page 8. AN ACT RESTRICTING PUBLIC ACCESS TO CERTAIN HOME ADDRESS INFORMATION RETAINED BY THE MOTOR VEHICLE DEPARTMENT.

Favorable Report of the Committee on JUDICIARY.

DEPUTY SPEAKER POLINSKY:

The distinguished gentleman from the 102nd, Representative Hanchuruck.

REP. HANCHURUCK: (102nd)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

Will you remark?

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Substitute HB7201 An Act Implementing the Recommendations of the Legislative Program Review and Investigations Committee Criminal Justice Investigation Related to the Division of Criminal Justice.

REFERRED TO: JUDICIARY

Judiciary

HB6175 An Act Concerning Authorization of Bonds of the State for Exterior Improvements to the New London County Courthouse.

REFERRED TO: FINANCE, REVENUE AND BONDING

Environment

Substitute HB6998 An Act Concerning Dog Licensing and the Seizure of Dogs whose Owners Fail to Comply with Quarantine and Restraining Orders.

REFERRED TO: FINANCE, REVENUE AND BONDING

Environment

Substitute HB7136 An Act Establishing a Program for the Protection of Endangered and Threatened Species.

REFERRED TO: GOVERNMENT ADMINISTRATION AND ELECTIONS

Environment

Substitute HB7204 An Act Concerning Open Space.

REFERRED TO: FINANCE, REVENUE AND BONDING

Labor and Public Employees

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CONNECTICUT
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Finance, Revenue & Bonding

HB5415 An Act Imposing a Tax on Marijuana or Any Controlled Substance Produced, Transported or Acquired by a Dealer.

REFERRED TO: APPROPRIATIONS

Environment

HB5993 An Act Concerning Dairy Income Enhancement.

REFERRED TO: FINANCE, REVENUE & BONDING

Planning & Development

Substitute HB6016 An Act Exempting Housing Land Trusts from the Rule Against Perpetuities.

REFERRED TO: JUDICIARY

Government Administration & Elections

Substitute HB7136 An Act Establishing a Program for the Protection of Endangered and Threatened Species.

REFERRED TO: JUDICIARY

Planning & Development

HB7215 An Act Concerning Town-Aid Grants under the Housing Partnership Program.

REFERRED TO: APPROPRIATIONS

Environment

Substitute HB7360 An Act Concerning the Low Level Radioactive Waste Fund.

REFERRED TO: FINANCE, REVENUE & BONDING

Planning & Development

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President. There may be additional items later. Also, Mr. President, I would like to take up one item initially. Page 6, Mr. President, I would like as the Call of the day, Calendar 443, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES.

THE CHAIR:

Clerk please call the item.

THE CLERK:

Calendar for Wednesday, May 24th, Page 6, Calendar 443, File 584 and 694, Substitute HB7136, AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES. As amended by House Amendment Schedules "B" and "C". Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR SPELLMAN:

Thank you, Mr. President. This bill expands an

existing program in the Department of Environmental Protection which identifies and protects plants and animals that are endangered or threatened with extinction. It requires the Commissioner of DEP to adopt regulations to identify and list endangered plants and animals, and to also add the habitats of these plants and animals to the existing species location disclosure exemptions.

It prohibits state agencies from destroying or threatening endangered plants or animals, habitats..that would include the Department of Transportation. And it also clarifies and requires that the Commissioner of the Department of Environmental Protection consider within the parameters of her budget acquisition of lands that would further the intention of this act in terms of protecting endangered species, including plants and animals.

Mr. President, from my perspective, the most important aspect of this bill is that it expands beyond Federal law which identifies under Federal concerns endangered species including animals and plants, to consider the specifics of animals and plants in Connecticut that are in danger.

I believe that that is peculiarly a State responsibility and I am proud and pleased that we will

take that responsibility under consideration and pass it today. The bill passed the House of Representatives 148 to nothing and I hope that we will have a similar vote in this Chamber.

THE CHAIR:

Further remarks? Senator Freedman, followed by Senator Avallone.

SENATOR FREEDMAN:

Thank you, Mr. President. I rise in support of this bill, but I do have a question, through you, to Senator Spellman.

THE CHAIR:

You may proceed.

SENATOR FREEDMAN:

Senator Spellman, you mention that DOT would be prohibited, if I understood correctly, from using lands where there were species that are now protected. Am I understanding that correctly?

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Prohibited from disturbing their habitat.

SENATOR FREEDMAN:

So in other words, if DOT is planning on doing some road building, but those particular species have no

other place to go and cannot be transferred somewhere else that land would not be available to them for their use.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Through you, Mr. President, DOT could continue to conduct their activities to the extent that they did not disturb the habitat of these identified species.

SENATOR FREEDMAN:

Just one last question, what is the effective date of this bill?

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Through you, Mr. President, upon its passage.

SENATOR FREEDMAN:

Thank you.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President, this bill obviously is very important and Senator Spellman and his Committee have done a great deal of work on it. But I think it is important from another perspective. The young ladies

and gentlemen that I introduced earlier from St. Andrews school took upon themselves as part of their civics class to do some drawings about it endangered species.

They took it upon themselves with the guidance of their teachers and their parents to get involved in a piece of legislation, something that I know as a child was the farthest thing from my mind. And I want to thank them for participating in the process, taking enough time and enough effort and enough of their concerns to let me know how important it was to them that the endangered species in Connecticut be protected. And in fact that all animals be protected.

And I just want them to know that their participation in this bill made it much easier for me to understand and for all of us to understand and how much their concern contributed to the passage of this bill. And I would recommend highly to my colleagues in the Senate to support this measure.

THE CHAIR:

Further remarks? Senator Spellman.

SENATOR SPELLMAN:

If there is no objection, Mr. President, I would ask it be placed on Consent.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Going back to Page 2, Calendar 391, File 397 and 617, Substitute HB7131, AN ACT ELIMINATING THE NUMBER OF EMPLOYEES OF THE CONNECTICUT RESOURCES RECOVERY AUTHORITY TO THE NUMBER ESTABLISHED BY ITS BOARD OF DIRECTORS. As amended by House Amendment Schedule "A". Favorable Report of the Committee on ENVIRONMENT.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

May that item be PT'd, Mr. President.

THE CHAIR:

The matter is Passed Temporarily.

THE CLERK:

Page 5, Calendar 437, File 440 and 693, Substitute HB5630, AN ACT CONCERNING CHLOROFLUOROCARBONS. As amended by House Amendment Schedules "A", "C" and "D". Favorable Report of the Committee on ENVIRONMENT.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Can we stand at ease for moment, Mr. President?

THE CHAIR:

The Senate will stand at ease. On Page 5, the last

THE CHAIR:

Please give your attention to the Clerk who will read the items that have been referred to the Consent Calendar.

THE CLERK:

Beginning on Page 4, Calendar 428, Substitute SB961. Calendar Page 5, Calendar 437, Substitute HB5630. Calendar Page 6, Calendar 443, Substitute HB7136. Calendar Page 8, Calendar 462, HB7536.

Calendar 465, Substitute HB7003. Calendar 466, Substitute HB7109. Calendar Page 9, Calendar 473, Substitute HB...correction, HB6277. Calendar Page 11, Calendar 485, HB7542. Calendar 486, Substitute HB7543.

Calendar Page 16, Calendar 519, HB7514. Calendar Page 22, Calendar 384, SB1055. Calendar Page 23, Calendar 444, Substitute HB7195. Calendar Page 27, Calendar 405, Substitute HB7126.

Mr. President, I believe that completes the first Consent Calendar.

THE CHAIR:

Are there any changes or omissions? The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

36 Yea

0 Nay

The first Consent Calendar is adopted.

The Senate will stand at ease. Senator O'Leary.

SENATOR O'LEARY:

Thank you, Mr. President. There is an item on Senate Agenda #1 that is Item #3. AN ACT CONCERNING BINGOS, BAZAARS, RAFFLES AND GAMES OF CHANCE. I would move for suspension of the rules so that that item could be considered.

THE CHAIR:

Any objection? Rules are suspended. Call the item please.

THE CLERK:

HB5784, AN ACT CONCERNING BINGO, BAZAARS, RAFFLES AND GAMES OF CHANCE. Favorable Report of the Committee on JUDICIARY. As amended by House Amendment Schedule "E".

THE CHAIR:

Senator Herbst.

SENATOR HERBST:

Thank you, Mr. President. I move acceptance of the Joint Favorable Report in concurrence with the House.

THE CHAIR:

Will you remark?

SENATOR HERBST: