

# MAINE STATE LEGISLATURE

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

Daily Edition

Second Regular Session  
January 4, 2012 to May 31, 2012

Pages 1594 - 2357

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

In Senate Chamber  
Tuesday  
January 10, 2012

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

Prayer by Rev. Mark Rustin of North Deering Congregational Church and Hiram Community Church.

**REVEREND RUSTIN:** Mr. President and members of the Senate, as Maine native I consider being born in this community which we call Maine a foundational blessing of my life. Growing and living in the midst of this culture taught me the value of self-reliance and personal achievement held in tension with an overarching compassion for those less fortunate. Mainers intuitively recognize the value of every life as part of the whole. Thank you for your willingness to bring your many gifts to bear on the task of governing this wonderful state. Having served as a pastor for 30 years, I appreciate that some days your work must feel like herding cats. I offer this prayer as sustenance for you in your crucial endeavors. Let us pray.

Gracious God, we come before you in this gathering to seek Your blessing upon the members of this Body. We have called them from their homes to represent us here in this important work. May Your spirit within each be quickened and provide the insight and wisdom to fulfill their tasks. Grant them peace in times of challenge and the courage to make the decisions they need to make on our behalf. Grant each Senator a sense of purpose befitting the office they hold and the trust inherent therein. At the end of this day, may they have a sense of accomplishment that comes from knowing they have kept faith with the people of Maine and with You. We pray all these things in Your holy name. Amen.

Pledge of Allegiance led by Senator Lois A. Snowe-Mello of Androscoggin County.

Reading of the Journal of Thursday, January 5, 2012.

Doctor of the day, Robert John Struba, MD, MPH, PhD of Belfast.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Require Carbon Monoxide Detectors in Additional Residential Facilities"

H.P. 1286 L.D. 1744

Presented by Representative HASKELL of Portland. Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Bill "An Act To Privatize the Inspection of Amusement Rides in Maine"

H.P. 1287 L.D. 1745

Presented by Representative HASKELL of Portland. Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Come from the House, REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed, in concurrence.

Bill "An Act To Amend Education Laws"

H.P. 1284 L.D. 1742

Presented by Representative RICHARDSON of Carmel. Submitted by the Department of Education pursuant to Joint Rule 204.

Comes from the House, REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Pursuant to Statute  
Maine Health Data Organization

Representative STRANG BURGESS submitted the Report of the **Maine Health Data Organization**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1285 L.D. 1743

Be REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report READ and ACCEPTED and the Resolve REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

**REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

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**COMMUNICATIONS**

The Following Communication: S.C. 652

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE PRESIDENT**

January 5, 2012

Honorable Joseph G. Carleton  
Secretary of the Senate  
3 State House Station  
Augusta, ME 04333

Dear Secretary Carleton:

Pursuant to my authority under Joint Rule 371, I am pleased to appoint Senator Garrett P. Mason of Androscoggin to the Government Oversight Committee. With this appointment Senator Mason will be replacing former Senator A. David Trahan of Lincoln on the Government Oversight Committee.

If you have any questions regarding this appointment, please contact my office.

Sincerely,

S/Kevin L. Raye  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: S.C. 653

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE GOVERNOR**

January 6, 2012

The Honorable Kevin Raye  
President of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Patrick C. Keliher of South China for appointment as Commissioner of the Department of Marine Resources.

Pursuant to Title 12, MRSA §6022, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Marine Resources.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: S.C. 649

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE GOVERNOR**

5 January 2012

The 125<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 125<sup>th</sup> Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 205, "An Act To Provide a Sales Tax Exemption to Incorporated Nonprofit Performing Arts Organizations."

Performing arts organizations are important to the cultural fabric of Maine. However, simply because something is worthwhile and good does not mean it should enjoy tax-free status. Exemptions from the sales tax should be saved for the necessities of life – food, shelter, medicine – as well as for important initiatives meant to foster growth and create good paying jobs in Maine industries, increasing our overall tax base. Performing arts organizations, while important, do not rise to meet this threshold.

Some Legislators have begun to say that we cannot afford tax relief at this point in our State's history. While I could not disagree with that position more strongly, I look forward to their support of this veto. I do believe that more tax relief is necessary, but that relief must be in the terms of an overall plan. My future tax relief packages offered by my Administration will put money back in the pockets of our seniors and our job creators, ensuring that our tax laws are fair and consistent. We owe the Maine people no less.

For these reasons, I return LD 205 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The Accompanying Bill:

An Act To Provide a Sales Tax Exemption to Incorporated Nonprofit Performing Arts Organizations

S.P. 55 L.D. 205

The President laid before the Senate the following: "Shall this Bill become a law notwithstanding the objections of the Governor?"

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand today to defend this bill that I had sponsored, L.D. 205. It was brought to me by my constituents and they had shown me where there was a terrible inequity between their non-profit status in buying material to build sound sets and stages and things in the performing arts where it wasn't that way in other non-profits. They really talked to me about trying to stabilize the jobs that they had created. When the International Music Festival explained to me that they would be able to take that savings and turn part-time jobs into full-time jobs they got my attention. When the Maine State Music Theater told me that they were looking to employ more people, and that is the way they were going to do it, I looked at this as a job stabilization bill, a job creation bill, as much as anything else. I also saw it as a way of leveling a playing field where certain non-profits were getting the benefit and these non-profits weren't getting the benefit. It wasn't about the non-profits, it was about who was creating jobs. Anytime I have the opportunity in my district to find ways of creating jobs everybody here knows that I go for that. Last year we created an exemption for airplane manufacturing and overhaul and rebuilding, a sale tax exemption. Within 24 hours of the enactment of that bill there was press release out of Portland that they were looking for 50 new employees at the Jet Port to do those kinds of jobs. At the same time it was noted that other aviation facilities around the state, Oxford Aviation being one, was bringing people home that were laid off from their jobs over the last several years. They were now being brought home to get those jobs because of that bill. I looked at this bill in a similar way. It is about jobs, leveling the playing field, and trying to stabilize a jobs market. We all have to understand the biggest attraction to Maine is tourism. The biggest tourist attraction in the state of Maine is some of these performing arts theaters. People come up. I find them all throughout my communities, all four of my communities, spending money on meals before the performances and after the performances. I find them coming to the performances, tens of millions of dollars are spent on those activities. That is what this bill is intended to do. That's why I think we had the support in the House and Senate on that bill. Unfortunately, the second floor didn't see it quite the way the third floor did. Thank you very much. I hope that people will follow my light on this and it will be green.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today to join my seatmate and colleague, the Senator from Cumberland, in urging you to override this veto. The reason I do that is that I will always want to take the

opportunity to point that when we are taking an action that's counter to revitalizing our downtowns and small businesses on Main Street. If you go to many of our communities across the state, these performing art centers are economic engines. We all have seen droves of people going into them and leaving them. Often they are coming or going to a small business; to a restaurant, to a shop, to a pub. I want you to think about that when you are voting today. It's very crucial that with everything we do we think about the economic consequences. This one has a long term economic consequence because it does not allow these performing arts, theaters, and organizations to flourish. Thank you, Mr. President.

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

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

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

Senator **SCHNEIDER:** Thank you Mr. President. What was the vote on this? Was there an actual vote taken and what was that?

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

At the request of Senator **ALFOND** of Cumberland, Report **READ.**

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#342)**

**YEAS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, PATRICK, RECTOR, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY

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

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, and 19 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED.**

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 650

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE GOVERNOR**

5 January 2012

The 125<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 125<sup>th</sup> Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 338, "An Act To Provide an Income Tax Credit for Logging Companies That Hire Maine Residents."

I intend to come forward with a tax relief package later in this session to ensure that our commercial timber harvesters receive the same sales tax treatment on equipment as their counterparts in the agriculture industry receive. As the Legislature is aware, my Administration is working to merge the Department of Agriculture, Food, and Rural Resources and the Department of Conservation to ensure that Maine will have a strong natural resource-based economy well into the future. This bill would place farmers and forestry on different footings, which works against the policy of creating uniformity and equity in our 21<sup>st</sup>-century natural resource-based industries.

Further, this bill will likely do little to achieve its proposed objective – encouraging timber companies to hire Maine residents. The amended version allows full access to the \$1000 fuel tax credit as long as someone from Maine is employed by the company. Quite frankly, there are better ways to give our loggers tax relief and allow them to create jobs in our working forests. I look forward to working with the Legislature on finding and implementing those better ways.

For these reasons, I return LD 338 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The Accompanying Bill:

An Act To Provide an Income Tax Credit for Logging Companies That Hire Maine Residents

S.P. 100 L.D. 338

The President laid before the Senate the following: "Shall this Bill become a law notwithstanding the objections of the Governor?"

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

Senator **JACKSON:** Thank you Mr. President. Members of the Senate, I wanted to get up for a moment to speak on this bill, obviously. Just to give you a little bit of history. I introduced this bill last session in front of the Taxation Committee. It had a divided report. When they got it onto the floor, there were a number of people that worked on amending it to change it to give some small amount of help to small business logging contractors in the state of Maine. With the work of the Taxation Committee members and Appropriations Committee members, I certainly want to thank Senator Rosen, Senator Hill, and Senator Katz for their efforts in Appropriations to find what money there was in tight times to give what was a small amount of help to Maine's small logging contractors. This bill, after being amended, did pass both Bodies by a significant number, which I think was a good thing. It was on par, I think, with stuff that we've done for fishing companies and windjammers, parts on windjammers. It was a small exemption to give some help to Maine logging companies. After we left here for a short amount of time, I was notified that the bill was being held without any real understanding of why or any response from the second floor as to why. We came back for bath salts and the Congressional redistricting. No one spoke to me about anything that could be done or anything that may be done to change it or even if there was an issue with it. Then we left here. The season has gone on. I, myself, left the company I was working for Thursday night at 8:30. Packed my stuff out of the camp that I was staying in and brought it all out. A lot of it I actually hauled down here for the camp I'm staying in down here. Thursday I was made aware that the bill was vetoed without any reason, any response, or anything like that. It seems somewhat especially cruel to wait all that time to veto something or even to try to work on something that would have been done way back at the beginning of session. We had conversations on an ongoing issue going on all session, or all Summer, about members of the second floor coming to Aroostook County to talk about logging issues. The Governor was there for the Capitol for a Day event where he made reference to that we needed more foreign workers in the state of Maine because there wasn't enough American loggers to do the work. I requested numerous times for him to come back to Aroostook County and just meet with the logging contractors and loggers in Maine to hear some of their issues. I'm sure this bill might have been one of the things he might have heard about if he had been willing to come back to Aroostook County. It never happened. Now this letter, we're led to believe that something else is going to happen to help logging contractors. We're going to be the same, or we're going to be on par with farmers. Farmers have a whole set of issues that they need help with, but loggers don't. While I certainly support doing everything we can for farmers, I don't understand how the second floor is going to come up with a plan when they haven't taken the opportunity to talk to logging contractors in Northern Maine, Central Maine. It seems odd that that's the excuse that there is and that this bill is inconsequential and won't do anything to help. I think it was something at least. Like I said, in these tight times we couldn't expect Appropriations to come up with everything that they needed, but it is at least something to say, "Look, we know you're having a hard time. We know that fuel costs are four and

five times higher than what they were just 10 years ago. We're trying to do something." It's at least a hand in this time. I know that the truckers throughout Maine, most of them, it costs \$800 to \$900 to fill their tanks just one time. This \$1,000 credit would have filled their tank one time. It would have been something, I think. It would have at least had something on the books and maybe somewhere along the line, when times were better, it could have been increased. It seems sad that this is what has been chosen to do here. I'm conflicted with trying to show respect for the office of the Governor, but my continued feeling that the logging companies in the state of Maine and the constituents in my district are seeing no respect from the office of the Governor. Not to mention whatever they may think of me, which is really inconsequential. Unfortunately, I'm the one that brings these issues forward because I have so many people in my district that rely on it. I don't expect that this is going to get over, but I would ask that anyone that doesn't feel like they can vote for overriding this bill please make an effort to ask the second floor if they would come to Northern Maine and meet these people first hand so that they could at least understand what the issues are that are effecting these people. Lord knows I've tried as much as I can to where it seems like, obviously, it's falling on deaf ears. I do not understand how such a bill that would help to some regard and that was passed with good numbers in this Body, was funded by the Appropriations Committee that had trouble with funding a host of things, is going to get thrown away for reasons that I'll never understand. At least, like I said, it would be something if he could come and meet with some of these people because a couple of weeks ago, whenever he came up to speak about the supplemental budget, there were numerous questions from that audience about logging issues that happened after the budget. People won't understand why it is that he continually seems against that profession. I would ask you, if nothing else, to vote to override this, but when you are not able to do that please send a letter down to the Governor's Office asking him to do something to help the logging profession. Thank you.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, my friend from Aroostook County is right. We do need to do something to help the logging industry in the state of Maine. Our loggers are being squeezed more every day. Yet fiber log costs are higher in Maine than they are almost anywhere else in the nation. To think that one day's fuel is going to help these people stay in business is wrong. They need some serious help. This is not serious help. I'm afraid that if we allow this veto not to take effect we will leave here thinking we've done something when in fact we've done nothing. These people need some real help and we need to think about it. Senator Jackson is right. These guys are being squeezed harder and harder. Lots of them have their houses on the line and they will lose everything that they own if something isn't done. This doesn't do it. I'm going to vote to sustain the veto and I'm going to work with the Senator from Aroostook to make a real difference because this isn't going to make a difference. If we vote for this and think we've done something, we'll be wrong. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I thank my colleague from Aroostook County for laying out what I believe was a great reason for overturning this veto. I do think \$1,000 will make a difference. I actually have gone to Aroostook County many times and have met loggers. I've met hunters, fishermen, and guides. Aroostook County is extremely in rough shape. This is an act to provide an income tax credit for logging companies that hire Maine residents. That hire Maine residents. If we do anything to help hire a Maine resident, someone that I've seen that are lean, that are mean, that are not fat, that are not lazy. They are people that want to go to work, but, because of a myriad of reasons, they cannot get hired because of the disadvantages that they have against them. Not overturning this veto, to me, although it is only a little bit, says an awful lot about how we feel about Maine workers, Maine residents. The good Senator from Somerset County is right. They are up against Maine loggers. Statically, I remember 165% increase to Maine landowners and a minus 35% decrease to wood harvesters. That's a 200% disparity. That's throughout the whole state of Maine. Although this has statewide ramifications, what is this? It is more of a bearer bill. What have we done over the years for the people along the coast, for the Kittery Portsmouth Shipyard? For the cost of liquor along the state of Maine border with New Hampshire? I don't know how many times I've heard my colleague get up and speak about the hiring of Maine workers. It's unconscionable to think that those people who believe Maine workers don't deserve to be hired because they don't work hard is totally ludicrous. As I know myself, I've had opportunities to get hired out-of-state and they are dying to get people from Maine because of our work ethics. The good Senator from Somerset is right. This is only a little bit, but we'd better start somewhere. If we keep turning a blind eye to working Maine loggers, what do we gain? We've got a hopeless bunch of people who someday may go the way of the shoe shops and the tanneries and the canneries in the state of Maine. Do we want that? I don't think so. I would ask you to override this veto. Thank you, ladies and gentlemen.

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#343)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

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

14 Senators having voted in the affirmative and 20 Senators having voted in the negative, and 14 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House of Representatives.

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The Following Communication: S.C. 651

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE GOVERNOR**

5 January 2012

The 125<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 125<sup>th</sup> Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1264, "An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs."

My Administration is working hard to lower the cost of government for Maine's taxpayers. Part of that initiative is reducing the State's ongoing operating costs; energy efficiency is an important part of that goal. Nevertheless, LD 1264 would mandate higher costs and hurt accountability in State government. That is why I cannot support it.

This bill would give some so-called "routine, technical" rulemaking authority to a quasi-independent state body. The affirmative requirements in those rules would cause the state, counties, schools, towns, and others to consider a number of expensive management policies without clear definitions of short-term cost impacts. If it makes long-term financial sense for a new building project to incorporate load management into the design, then it will be included in the design. If, in a particular case, it does not make financial sense to include it, then this bill could require it be included anyway. Each case must be examined and reviewed on its own merits. One size does not fit all.

The second problem with this bill is the delegation of authority to agencies outside the oversight of elected officials. When rules are made, an elected official – a Governor, Representative, or Senator – should be directly responsible and electorally accountable for that decision. Giving away that responsibility to the Efficiency Maine Trust places an additional barrier between

the people of Maine and the laws they have to live by, something I simply cannot support.

For these reasons, I return LD 1264 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The Accompanying Bill:

An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs

S.P. 385 L.D. 1264

The President laid before the Senate the following: "Shall this Bill become a law notwithstanding the objections of the Governor?"

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

Senator **BARTLETT:** Thank you Mr. President. I urge you to override the veto of the Chief Executive for two principle reasons. One, this legislation is good public policy. Two, the arguments that have been put forward in the veto statement simply don't seem to apply to the bill in its final form. The bill is designed to give government entities at all levels one additional tool to use to lower their energy costs in their public buildings. It also provides access to financing to make it a reality. Already, under existing law, we require the Bureau of General Services, an Executive Branch agency, to develop rules around energy efficiency in construction of buildings. This legislation simply asks that those rules include load management as one additional option. Load management is designed to move the time of usage of your energy in ways that can save you money, either because you have a time of use contract or because you can get paid, actually, for demand response by affecting your usage at peak periods. It's a good way to construct public buildings, to make sure that you are using energy when it is the cheapest. The legislation passed with unanimous support in committee and with the unanimous support of both Chambers. In this veto statement, the Chief Executive raises two major issues of concern. I did provide a written statement on your desks and I hope you have a chance to review that. First, this criticism of the fact that routine technical rules are going to be made by a quasi independent agency. The letter goes on to criticize a delegation of authority to agencies outside the oversight of elected officials and refers to the Efficiency Maine Trust. While it is true that the Efficiency Maine Trust is an independent agency, the final legislation, as we passed it, does not delegate any rule making authority to them. They are not the ones passing rules. Under existing law, the Bureau of General Services crafts the rules with the consultation of the Public Utilities Commission, another independent agency. The reason they are asked to consult the Public Utilities Commission is because when the original law was drafted all efficiency programs resided with the Public Utilities Commission. That is no longer the case. We made one simple change, which was really a housekeeping change, to say that, "Look, when you



are drafting these rules we still want you to consult with the efficiency experts, but they have moved from the PUC over to the Efficiency Maine Trust." All this legislation does is ask that the Bureau of General Services consult with the appropriate independent agency with respect to efficiency. The Efficiency Maine Trust or any independent agency is given no independent rule making authority by this legislation. The Bureau of General Services is, of course, an Executive Branch agency with full oversight by the Governor and the Legislature.

The second criticism seems to be that there may be some kind of a Mandate that would force units of government, through municipalities or otherwise, to undertake expensive load management development when it's not cost effective. In fact, this legislation does not do that. Just as with energy efficiency, it requires that it be considered in the design process so that government entities are aware of what options are available to them if they so choose. If they don't want to use load management, even if it is cost effective, they don't have to, just as they don't have to adopt energy efficiency measures even if they are cost effective. I always felt that this approach was very conservative. It simply says that we are going to put forward the tools and the information in front of the decision makers at the municipal level, our school districts, and our counties in the state and let them make the decisions with the best information possible. We would also make sure that they have access to the financing tools that are needed to implement these measures. They are given the information and the access to capital. We already deal with this with respect to energy efficiency. It simply expands it to load management. It is good policy and I would urge you to override the veto. Thank you.

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

**Senator THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to commend the bill's sponsor for his defense of something that he feels passionately about. I'm sure that he believes that it's a very important bill that he sponsored. I also want to suggest to you that our predecessors that set up this system of government for which we operate under really had some foresight. They understood that there should be some checks and balances in place. I actually want to commend the Administration for exercising those checks and balances. They actually picked up on something that we didn't pick up on in committee. I am Chair of the committee which this passed through. That is the idea of that there is a Mandate involved. Each one of us represents a portion of the state of Maine. I'll be willing to bet that each one of us has superintendents of schools that are part of that. I know, myself, I've represent three different school districts. To a person, each one of these school district's superintendents came to me at one point or another and suggested, "Senator Thibodeau, we're working with very limited resources and we're doing the best we can to stretch those resources as far as we can. One of the things that you continue to do that hurts us is you pass along unfunded Mandates." We continually, as a Body, add to this load that they are expected to operate under. I'm not suggesting that this is a huge load, but I will suggest to you that this is still another one of those Mandates. The message behind that is, "We listen to you but we didn't hear you." I applaud the Administration for pointing out that, indeed, this is a Mandate that, quite frankly, isn't necessary. There is nothing in the current law that prohibits anybody that is designing

for a new school to consider load management. Nothing in the law that prohibits that. This is simply a Mandate that says they must. Again, I would encourage you to not override the veto and sustain it. I think that the system has worked very well and, indeed, it is an unfunded Mandate. Thank you.

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#344)**

**YEAS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

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

15 Senators having voted in the affirmative and 19 Senators having voted in the negative, and 15 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House of Representatives.

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Off Record Remarks

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**SENATE PAPERS**

Bill "An Act To Eliminate the Deposit Requirements for Containers of Limited and Restricted Use Pesticides"  
S.P. 606 L.D. 1758

Presented by Senator SAVIELLO of Franklin.  
Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

On motion by Senator **SHERMAN** of Aroostook, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent down for concurrence.

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Bill "An Act To Amend Certain Provisions of Law Governing the Department of Corrections"

S.P. 602 L.D. 1754

Presented by Senator MASON of Androscoggin.  
Submitted by the Department of Corrections pursuant to Joint Rule 204.

Bill "An Act Regarding the Interstate Compact for Adult Offender Supervision"

S.P. 603 L.D. 1755

Presented by Senator MASON of Androscoggin.  
Submitted by the Department of Corrections pursuant to Joint Rule 204.

Bill "An Act To Establish a Separate State Council for Juveniles under the Interstate Compact for Juveniles"

S.P. 604 L.D. 1756

Presented by Senator MASON of Androscoggin.  
Submitted by the Department of Corrections pursuant to Joint Rule 204.

On motion by Senator MASON of Androscoggin, REFERRED to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Sent down for concurrence.

Bill "An Act To Amend and Clarify the Public Charter School Law" (EMERGENCY)

S.P. 607 L.D. 1762

Presented by Senator MASON of Androscoggin.  
Submitted by the Department of Education pursuant to Joint Rule 204.

On motion by Senator LANGLEY of Hancock, REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

Bill "An Act To Reduce Open Burning in Neighborhoods"

S.P. 608 L.D. 1763

Presented by Senator COURTNEY of York.  
Cosponsored by Representative NASS of Acton and Senators: PLOWMAN of Penobscot, SAVIELLO of Franklin,  
Representatives: CRAY of Palmyra, MORISSETTE of Winslow.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator SAVIELLO of Franklin, REFERRED to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

Bill "An Act To Require Agencies To Report the Costs of Pursuing Actions in Adjudicatory and Court Proceedings"

S.P. 605 L.D. 1757

Presented by Senator PLOWMAN of Penobscot.  
Cosponsored by Senator: MARTIN of Kennebec.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

On motion by Senator THOMAS of Somerset, REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act To Improve Transportation in the State"

S.P. 601 L.D. 1753

Presented by Senator COLLINS of York.  
Cosponsored by Representative CEBRA of Naples and Senators: DIAMOND of Cumberland, THOMAS of Somerset,  
Representatives: BEAVERS of South Berwick, MAZUREK of Rockland, PEOPLES of Westbrook, ROSEN of Bucksport, WILLETTE of Mapleton.  
Submitted by the Department of Transportation pursuant to Joint Rule 204.

On motion by Senator COLLINS of York, REFERRED to the Committee on **TRANSPORTATION** and ordered printed.

Sent down for concurrence.

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

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Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

H.P. 1299

**JOINT RESOLUTION DESIGNATING JANUARY 10, 2012  
AS INFANT AND TODDLER AWARENESS DAY**

WHEREAS, 14,000 children are born in Maine annually and all parents want their children to grow to be happy, healthy and well educated; and

WHEREAS, young children need positive relationships, rich learning opportunities and safe environments; and

WHEREAS, early experiences determine whether a child's brain architecture will provide a strong or weak foundation for all future learning, behavior and health; and

WHEREAS, the majority of the brain development essential for later academic success has occurred by the time a child is 5 years of age; and

WHEREAS, positive experiences for children prior to entering school lead to better results than do remediation programs at a later age; and

WHEREAS, research shows that high-quality early learning programs cut later crime and improve educational outcomes and that children who attend high-quality early learning programs are less likely to commit crimes when they grow up; and

WHEREAS, research also shows that children in high-quality early learning programs learn to get along better with others and follow directions, which may reduce problem behavior that can lead to youth and adult crime; and

WHEREAS, high-quality early learning programs also show strong results for children in improving language and math skills, reducing grade retention and increasing graduation rates, and this school success can lead graduates of high-quality early learning programs to have higher rates of employment and earnings as adults; and

WHEREAS, the Maine Children's Growth Council and the Children's Cabinet are dedicated to improving the efficacy of the early childhood education system in Maine; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize that January 10, 2012 is Infant and Toddler Awareness Day in the State in order to acknowledge the importance of proper early childhood development for our infants and toddlers.

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

**READ.**

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand here proudly as a member of the Children's Growth Council and to remind us all that we all have a stake in early childhood here in Maine. Sometimes the scale here in Augusta makes us all a little disconnected from the work in our districts, however the story for early education is pretty simple.

It's pretty straight forward. Each day in the state of Maine 38 births occur in the state of Maine. These are precious resources. These are resources that enrich our families, our culture, and our state's future. Early education is key to our economic success and is linked to safe, welcoming, and is important for the start of every child. What we must do better here, and what we must fund better here, is early childhood education. We know that Maine's economy is influenced by the health and the start that young children, no matter how old, start their careers. In closing, I urge all of you, regardless of if you listen to anything I just said, to go to a early childhood center in your community, whether that is a Headstart program or a CDS or a nursery, and just spend time there for an hour and just watch the learning that is happening and watch our future because these truly are the youngsters that will take our place and the investment is critical. Thank you.

**ADOPTED**, in concurrence.

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Off Record Remarks

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Senator **SCHNEIDER** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **PATRICK** of Oxford was granted unanimous consent to address the Senate off the Record.

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

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

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Wednesday, January 11, 2012, at 10:00 in the morning.