

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

First Regular Session
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STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
April 8, 2009

Senate called to order by President Elizabeth H. Mitchell of
Kennebec County.

Prayer by Senator Nancy B. Sullivan of York County.

SENATOR SULLIVAN: Thank you, Madame President. I want to thank Ms. O'Brien for not sending me a letter today telling me to be brief. I want to start with a story that I find I've always enjoyed. It's about seven blind men, I can't really change this next part, and an elephant. They wanted each of the blind men, as they led them up to different parts of the elephant, to feel and tell them what they saw. Each reported back the sleekness of the tusks, the floppiness of the ears, the strength of the legs, and on and on and on. It didn't make sense until all the stories were put together and then the picture was complete and they could understand it was an elephant. I'd like you to keep that in mind as we pray today.

Dear Father, Mother, Great Spirit, and any and all other names that You are known by, help us to heed the story of the blind men. Let us value and respect, like the seven blind men, what each of us feels or sees. Remind us that the picture is not complete until all the pieces are in place. We ask for Your strength and wisdom as we struggle with the budget. Let us make responsible decisions with compassion. Let us not be blinded and see only our views but be granted the ability to build from our differences. We ask You to watch over our men and women in the defense of our country. We ask for Your love for our families and friends. We ask for Your love for peace throughout the world. As Christians prepare for Easter, their most significant religious holiday, this weekend, may we honor and appreciate the importance of Passover, that our Jewish colleagues and friends will observe this evening. It was actually in the observance of Passover, the Seder, that Christians now come to know the last supper. The two events are connected, so in that spirit of differences uniting us, in the spirit of love, Salom, happy Easter, peace.

Reading of the Journal of Tuesday, April 7, 2009.

Doctor of the day, Dr. Russell DeJong, MD of Belgrade.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Require Interscholastic Athletic Organizations To Comply with Freedom of Access Laws"
H.P. 909 L.D. 1306

In House, March 31, 2009, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

In Senate, March 31, 2009, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

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

On motion by Senator **ALFOND** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act To Implement Respectful Language Amendments"
H.P. 995 L.D. 1419

Committee on **JUDICIARY** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

On motion by Senator **BLISS** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Bill "An Act To Transfer the Seed Potato Board to the Maine Potato Board"
H.P. 982 L.D. 1406

Comes from the House, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed, in concurrence.

Resolve, To Implement Select Recommendations of the Joint Select Committee on Future Maine Prosperity (EMERGENCY)
H.P. 989 L.D. 1413

Comes from the House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **SCHNEIDER** of Penobscot, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

Bill "An Act To Implement the Recommendations of the PE4ME Planning and Oversight Team"

H.P. 983 L.D. 1407

Bill "An Act To Amend the Laws Governing Spending by School Administrative Units"

H.P. 990 L.D. 1414

Resolve, To Promote Partnerships between the University of Maine System and the Maine Business Community

H.P. 991 L.D. 1415

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

On motion by Senator **ALFOND** of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed, in concurrence.

Bill "An Act To Establish the Universal Childhood Immunization Program"

H.P. 984 L.D. 1408

Bill "An Act To Update Terms and Make Changes in Child Care and Transportation Benefits under the Temporary Assistance for Needy Families Program"

H.P. 992 L.D. 1416

Bill "An Act To Add Unlicensed Assistive Persons with Notations to the Maine Registry of Certified Nursing Assistants"

H.P. 993 L.D. 1417

Come from the House, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

On motion by Senator **BRANNIGAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed, in concurrence.

Bill "An Act To Make Technical and Supervisory Amendments to the Laws Governing Banking and Consumer Credit"

H.P. 985 L.D. 1409

Bill "An Act To Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures" (EMERGENCY)

H.P. 994 L.D. 1418

Come from the House, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

On motion by Senator **BOWMAN** of York, **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed, in concurrence.

Bill "An Act To Alter the Distribution of Maine Clean Election Act Funding to gubernatorial candidates"

H.P. 996 L.D. 1420

Bill "An Act To Ensure the Perpetual Care of Maine Veterans' Cemeteries"

H.P. 997 L.D. 1421

Come from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

On motion by Senator **SULLIVAN** of York, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed, in concurrence.

Resolve, Directing the Department of Environmental Protection To Submit a Report and Recommendations Concerning Oil from Tar Sands, Coal from Mountaintop Removal Mining and Other High-polluting Energy Sources

H.P. 998 L.D. 1422

Bill "An Act To Improve Toxics Use Reduction and Reduce Energy Costs by Maine Businesses"

H.P. 999 L.D. 1423

Come from the House, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

On motion by Senator **GOODALL** of Sagadahoc, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed, in concurrence.

Bill "An Act To Restore the Historical Town Boundary between Harpswell and Brunswick"

H.P. 986 L.D. 1410

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Unicameral Legislature

H.P. 1000 L.D. 1424

Bill "An Act Regarding Payment to Municipal and Quasi-municipal Entities for Emergency Response to Hazardous Materials Incidents"

H.P. 1001 L.D. 1425

Come from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

On motion by Senator **SIMPSON** of Androscoggin, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

Bill "An Act To Allow Municipalities To Impose a Local Option Lodging or Meals Tax"

H.P. 1002 L.D. 1426

Bill "An Act To Compensate Maine Residents for the Impacts of High-voltage Transmission Lines" (EMERGENCY)

H.P. 1003 L.D. 1427

Come from the House, **REFERRED** to the Committee on **TAXATION** and ordered printed.

On motion by Senator **BLISS** of Cumberland, **REFERRED** to the Committee on **TAXATION** and ordered printed, in concurrence.

**Pursuant to Statute
Maine Health Data Organization**

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 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 987 L.D. 1411

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.

**Pursuant to Statute
Department of Health and Human Services, Office of
MaineCare Services**

The **Department of Health and Human Services, Office of MaineCare Services**, 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 101: MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services (EMERGENCY)

H.P. 988 L.D. 1412

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.

Joint Resolution

The following Joint Resolution:

H.P. 1004

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND CONGRESS OF THE UNITED STATES TO SIGN LEGISLATION THAT ESTABLISHES A NATIONAL, UNIVERSAL, SINGLE-PAYOR NONPROFIT HEALTH CARE PLAN

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress as follows:

WHEREAS, administrative costs and profits inherent in our current private insurance-based system consume 31% of health care spending, nearly twice that spent by other national health care systems; and

WHEREAS, it is estimated that the cost for the United States National Health Insurance Act, H.R. 676 would only be 5% of income for a vast majority of employers and employees; and

WHEREAS, today medical bills contribute to 1/2 of all personal bankruptcies, the majority of which happen to people who have insurance when illness occurs; and

WHEREAS, proposed mandatory private for-profit health insurance plans will be affordable only for those people who choose high deductibles and minimal coverage, discouraging preventive care and saddling many families with huge medical bills; and

WHEREAS, over the last 35 years managed care, health maintenance organizations and private for-profit health reforms have failed to contain health care costs, which now threaten the international competitiveness of United States manufacturers; and

WHEREAS, researchers at Harvard University have estimated that more than \$300,000,000,000 per year could be recovered by replacing private insurance companies with a public single-payor plan, enough to cover the uninsured and to improve coverage for all those who now have only partial coverage; and

WHEREAS, the United States National Health Insurance Act would ensure universal coverage for all medically necessary services, contain costs by slashing bureaucracy, protect the doctor-patient relationship, ensure that patients have a completely free choice of doctors and hospitals and allow independent private physicians to make decisions about needed care rather than the profit-oriented corporations; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Congress enact and the President of the United States sign legislation that is substantially similar to the United States National Health Insurance Act, H.R. 676, which was introduced in the 110th United States Congress; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States and the United States Congress and to each Member of the Maine Congressional Delegation.

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

READ.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ADOPTION**, in concurrence.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 205

**STATE OF MAINE
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE
COMMITTEE ON LABOR**

April 3, 2009

Honorable Elizabeth H. Mitchell, Senate President
Honorable Hannah M. Pingree, Speaker of the House
124th Maine State Legislature
State House Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree,

Pursuant to Joint Rule 310, we are writing to notify you that we have approved the request by the bill sponsor Rep. Watson of Bath, to report the following bill Leave to Withdraw:

L.D. 1109 An Act To Prohibit the Reduction of Benefits under the Maine Workers' Compensation Act of 1992 for Certain Prior Injuries

Sincerely,

S/Sen. Troy D. Jackson
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

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

SENATE PAPERS

**Pursuant to Statutes
Commission on Governmental Ethics and Election Practices**

Senator SULLIVAN for the **Commission on Governmental Ethics and Election Practices**, pursuant to the Maine Revised Statutes, Title 1, section 1009 asked leave to report that the accompanying Bill "An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices"

S.P. 536 L.D. 1451

Be **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Report **READ** and **ACCEPTED**.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **JUDICIARY** on Bill "An Act To Clarify Child Abuse and Neglect Information Disclosure"

H.P. 141 L.D. 162

Reported that the same **Ought to Pass**.

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Require School Bus Drivers and School Bus Attendants To Report Suspected Child Abuse"

H.P. 315 L.D. 427

Reported that the same **Ought to Pass**.

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Resolve, To Designate the Great South Bridge in the Town of Milbridge as the Harold West Bridge

H.P. 579 L.D. 843

Reported that the same **Ought to Pass**.

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Charter of the Winterport Water District" (EMERGENCY)

H.P. 656 L.D. 953

Reported that the same **Ought to Pass**.

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow a Cosmetologist, Barber, Manicurist or Aesthetician Licensee To Perform Services outside of the Primary Business Location"

H.P. 149 L.D. 184

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-37)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-37)**.

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

READ ONCE.

Committee Amendment "A" (H-37) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Encourage Economic Recovery and Employment Growth To Support Maine's Working Waterfronts" (EMERGENCY)

H.P. 214 L.D. 271

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-36)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-36)**.

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

READ ONCE.

Committee Amendment "A" (H-36) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Clarify the Law Regarding Reinstatement of a Driver's License"

H.P. 339 L.D. 451

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-38)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-38)**.

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

READ ONCE.

Committee Amendment "A" (H-38) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Prohibit Telephone Line-item Charges Not Representing Services Requested by the Customer or Required by Law"

H.P. 111 L.D. 127

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-32).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-32).**

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

READ ONCE.

Committee Amendment "A" (H-32) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Charter of the Caribou Utilities District"

H.P. 165 L.D. 200

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-34).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-34).**

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

READ ONCE.

Committee Amendment "A" (H-34) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding Consumer-owned Water Utilities and Contracts for Water Extraction and for the Sale of Water"

H.P. 192 L.D. 238

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-35).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-35).**

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

READ ONCE.

Committee Amendment "A" (H-35) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Protect Consumers from Credit Card and Debit Card Holds"

H.P. 334 L.D. 446

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

Signed:

Senators:

BOWMAN of York
ALFOND of Cumberland
McCORMICK of Kennebec

Representatives:

TREAT of Hallowell
GOODE of Bangor
RICHARDSON of Warren
LEGG of Kennebunk
WEAVER of York
MORRISON of South Portland
BECK of Waterville
FOSSEL of Alna
PRIEST of Brunswick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass.**

Signed:

Representative:

BEAUDOIN of Biddeford

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Reports **READ**.

On motion by Senator **BOWMAN** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

Eleven members of the Committee on **NATURAL RESOURCES** on Bill "An Act Regarding the Labeling of Wood Pellet and Biomass Heating Fuel Sold in the State"

H.P. 238 L.D. 298

Reported in Report "**A**" that the same **Ought Not to Pass**.

Signed:

Senators:

GOODALL of Sagadahoc
SMITH of Piscataquis

Representatives:

HAMPER of Oxford
BOLDUC of Auburn
KNAPP of Gorham
MARTIN of Eagle Lake
DUCHESNE of Hudson
EDGECOMB of Caribou
WALSH INNES of Yarmouth
AYOTTE of Caswell
WELSH of Rockport

One member of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-54).

Signed:

Representative:

EBERLE of South Portland

One member of the same Committee on the same subject reported in Report "**C**" that the same be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

Signed:

Senator:

SIMPSON of Androscoggin

Comes from the House with Report "**A**", **OUGHT NOT TO PASS READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **GOODALL** of Sagadahoc, Report "**A**", **OUGHT NOT TO PASS ACCEPTED**, in concurrence.

Senate

Ought to Pass As Amended

Senator **BRANNIGAN** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Beaches in Maine's State Parks" (EMERGENCY)

S.P. 26 L.D. 67

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-38).

Report **READ** and **ACCEPTED**.

On motion by Senator **RAYE** of Washington, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF REPORT**.

Senator **BOWMAN** for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Equalize Annuity and Structured Settlement Annuity Benefits with Life Insurance under the Maine Life and Health Insurance Guaranty Association"

S.P. 263 L.D. 688

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-40).

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-40) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **DAMON** for the Committee on **MARINE RESOURCES** on Bill "An Act To Permit the Landing of Dragged Crabs as Bycatch" (EMERGENCY)

S.P. 350 L.D. 928

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (S-41).

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-41) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Resolve, To Change the Uses for Funds for Conservation Programs (EMERGENCY)

S.P. 151 L.D. 407

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-39)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-39) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act To Require a Person under 18 Years of Age To Wear a Helmet While on a Motorcycle"

H.P. 325 L.D. 437

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Resolve, Directing the Department of Professional and Financial Regulation To Amend Its Rules Governing Pastoral Counselors (EMERGENCY)

H.P. 7 L.D. 12
(C "A" H-22)

Bill "An Act To Clarify the Election of Municipal Charter Commission Members" (EMERGENCY)

H.P. 29 L.D. 34
(C "A" H-17)

Bill "An Act To Change the Coyote Night Hunting Season"

H.P. 47 L.D. 54
(C "A" H-29)

Bill "An Act To Authorize the State Board of Nursing To Request Mental and Physical Examinations and To Establish a Nurse Health Program"

H.P. 78 L.D. 94
(C "A" H-20)

Resolve, To Facilitate the Creation of a Memorial for the Families and Friends of Children Who Have Died by Violence

H.P. 102 L.D. 117
(C "A" H-16)

Bill "An Act To Facilitate the Protection of Electric Utility Consumer Interests in Public Utility Commission Cases Involving the Construction, Rebuilding or Relocating of Transmission Lines"

H.P. 126 L.D. 147
(C "A" H-23)

Bill "An Act Relating to Autocycles"

H.P. 131 L.D. 152
(C "A" H-25)

Bill "An Act Regarding the Requirement That the Treatment of a Gunshot Wound Be Reported"

H.P. 222 L.D. 282
(C "A" H-19)

Bill "An Act To Ensure That Medical Equipment Found in a Repossessed Vehicle Is Returned to the Owner"

H.P. 237 L.D. 297
(C "A" H-26)

Bill "An Act To Include Trucks in the Definition of 'Low-speed Vehicle'"

H.P. 324 L.D. 436
(C "A" H-24)

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 17 School Street in Benedicta, Aroostook County

H.P. 337 L.D. 449
(C "A" H-18)

Bill "An Act To Support Maine State Parks"

H.P. 400 L.D. 562
(C "A" H-30)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Resolve, Directing the Secretary of State To Conduct a Pilot Program for Early Voting for the November 2009 Election

S.P. 48 L.D. 129

Bill "An Act To Add Maine Maritime Academy Representation to the State Employee Health Commission"

S.P. 246 L.D. 672

READ A SECOND TIME and **PASSED TO BE ENGROSSED**.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Create a Penalty for Harvesting Scallops in a Conservation Area"

S.P. 31 L.D. 82
(C "A" S-28)

Bill "An Act To Preserve Statewide Public Broadcasting"

S.P. 89 L.D. 266
(C "A" S-33)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting

S.P. 114 L.D. 350
(C "A" S-35)

Bill "An Act To Amend the Laws Regarding Mandatory Electronic Filing of Certain Tax Returns" (EMERGENCY)

S.P. 189 L.D. 490
(C "A" S-36)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Amend the Charter of the Limestone Water and Sewer District

H.P. 218 L.D. 275
(C "A" H-33)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 32

H.P. 588 L.D. 857

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 33: Rules for the Certification of Family Child Care Providers, a Major Substantive Rule of the Department of Health and Human Services, Division of Licensing and Regulatory Services

H.P. 70 L.D. 80
(C "A" H-8)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Clarify the Disposition of Fines from Maine's Soft-shelled Clam Laws

H.P. 27 L.D. 32
(C "A" H-7)

An Act To Amend the Laws Concerning Informal Conferences as Part of the Board of Licensure in Medicine's Disciplinary Proceedings

S.P. 38 L.D. 89
(C "A" S-6)

An Act To Abolish the Intergovernmental Advisory Commission

H.P. 174 L.D. 209

An Act To Clarify the Prohibition on Payment for Health Care Facility Mistakes or Preventable Adverse Events

H.P. 258 L.D. 322

An Act To Enable the Maine Employers' Mutual Insurance Company To Better Serve the Needs of All Employers

S.P. 221 L.D. 606

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

An Act To Include as Authorized Project Costs the Construction or Improvement of Buildings Used by Municipalities for Purposes of Designating Municipal Development Districts

S.P. 195 L.D. 500

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

(In Senate, April 7, 2009, Reports **READ**.)

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (4/7/09) Assigned matter:

Bill "An Act To Clarify the Purpose of the Notice Requirement of Land Taking by the Department of Transportation"
S.P. 524 L.D. 1440

Tabled - April 7, 2009, by Senator **DAMON** of Hancock

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and ordered printed.)

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/7/09) Assigned matter:

SENATE REPORTS -from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Calculate the School Year by Number of Hours" (EMERGENCY)
S.P. 86 L.D. 245

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-31) (8 members)

Report "B"- Ought to Pass as Amended by Committee Amendment "B" (S-32) (4 members)

Report "C"- Ought Not to Pass (1 member)

Tabled - April 7, 2009, by Senator **ALFOND** of Cumberland

Pending - motion by same Senator to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-32)**

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

Senator **SULLIVAN:** Thank you, Madame President. I understand, I can count, but I just need to be on record on this. This is a bill that I submitted. It had two basic parts. It changed the word 'days' to 'hours'. That was the gist of this bill. It was as simple as that. Two parts. I am aware of school districts a year ago this winter that had missed twelve or thirteen days of school and had graduation scheduled in an outside area. Were they going to be able to have it? When they asked permission to actually add an hour onto the day, the Commissioner of Education was unable to grant that request because, as she read it after getting an opinion from the Attorney General, the school days must be 175 days. This particular school district had to go to school instead of adding a full hour, a block of time, a real chunk of schooling where education can happen. Instead this school had to go on a Saturday. They had to make it around prom, SATs being given, and religious holidays for people. It was a real problem. Plus overtime and everything else for the school system. We all know that one size does not fit all. Through consolidation we've learned that does not fit. I think a lesson if nothing else. Those of you who were here last year, we've learned. For some school systems it may make sense to do what was being called a four-day week. I called it based on hours. Indeed, you might take a Monday, which many are off anyways already as holidays. There are problems with that. I was very clear in my testimony that would happen. There is daycare. The problem with school sports. Monday is a day that there is practice. There are no school sports that are played on Mondays unless they are make-ups. Basketball, football, all those things are on different days. Indeed, the thing that bothered me at work session was that we were really concerned that we can't trust the local school boards not to make a decision based just on money. Indeed, there is at least a 20% savings out of your transportation costs. Those people in stand-alone school districts that have to show a 6% savings in transportation, when the cost of everything has gone up, would be hard pressed to be able to do this. If you eliminate one day of school, remember it's being calculated as hours, no standards have changed. It is simply the word 'hours' instead of 'days'. You could save 20%. That may be important. If a community sits together and works together, I believe in local control. I believe there ought to be a real concern and a real issue that a community has the chance to talk as a community and decide how they want to educate their children. I think it's somewhat arrogant on our part to believe that they aren't qualified to make those decisions. That they may make the wrong decisions. That's the piece that bothered me. I'm going to vote against this motion and go on to a different report because this motion does give the commissioner the right to change hours to days for make-up days. I would like to see our local communities have a chance to be able to talk about the education of their children and save money, if it works, for their community, their children, their time and not have it come from the big house in Augusta. I would ask you to vote against this and go on to vote for another report that would be offered instead. Thank you.

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

Senator **ALFOND**: Thank you, Madame President. Ladies and gentlemen of the Senate, I urge you to vote for the motion the table. What the real problem is here, what we found out from schools, is that when the commissioner got a phone call from a community that lost eight or nine or ten days because of winter, or because of whatever the issue was, she did not have the authority to tell that community or that district that you can actually make up those days by adding hours the rest of the year. What we have moved as the recommendation solves that problem. The commissioner now has that authority. It's as simple as that. The issue of trying to move it, what the Minority Report is, is a big policy shift. There is really very little evidence that we've seen that having hours added to the days from the beginning of the year to the end of the year has any educational benefit. It might have some, but there are very little reports out there. This was not a question about trusting local schools. This was not a question about consolidation. This is a question of the superintendent being able to pick up the phone and tell their district that they can make up these thirteen days by adding some hours to the rest of the year. I think it's the report that you should support and I hope I gained your support. Thank you.

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

Senator **WESTON**: Thank you, Madame President. Men and women of the Senate, actually this is a first. Most of the work that we have been doing in our committee has been bipartisan, nonpartisan, and we've looked at all the educational problems and come up, I think, with really great answers. On this there were some differences. All I want to do this morning is explain a few of the nuances and the differences. What is in law right now is any superintendent certainly can call and ask for a waiver for the minimum number of days. I'm sure your districts have had to do that in the past on an infrequent basis. Sometimes that is convenient. As you have already heard from the Senator from Cumberland, Senator Alfond, they don't want to actually have to lose entire days. They would prefer just to add a few hours or minutes onto their day. She's unable to do that. That is absolutely correct. The Minority Report allows that. I call that a tweak. It's a tiny tweak that allows her to say you can add, temporarily, and it is very temporary and it is up to the commissioner, a few minutes, half hour, or an hour onto your day to meet the requirement. What the Majority Report said is let's try to answer the entire question that was brought to us. There were two bills brought. What we did try to do was merge the most important things from each of those bills. The commissioner has said that times have changed and if we can provide an opportunity for schools to modify their school calendars it could result in significant savings for them. She said, more importantly, that our standards base learning environment now provides flexibility that the Majority Report, if we could get to it, would provide. It isn't a giant step. Report B is tweak. I think Report A is a step. It simply allows the commissioner to give flexibility to your school boards to have an alternative schedule. It requires rule making and it's only voluntary and it will be limited in its scope. It's a step, not a tweak, and I believe we were asked for a step during the hearing. I leave it to you, but I do recommend a step for flexibility and for the future. Thank you.

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

Senator **ALFOND**: Thank you, Madame President. I wouldn't disagree with my good Senator who sits with me on the Education Committee and Cultural Affairs. Maybe you all didn't get any of these e-mails that I did from parents. Parents are now fundamentally wondering if we change the school year, the school calendar, what is going to happen on Fridays. Who's going to pay for childcare? Who's going to pay for all these extra costs? Yes, the schools might be saving costs. I don't really remember getting to 20% or big big savings that we saw in the committee. What I did hear is from parents. Parents saying that we are shifting the cost to them. There is no plan for childcare. There is no plan for any of those. I, again, believe what we have before us is an Ought to Pass. It's a small incremental change. I think it's the right move for this Body and I urge your support.

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

Senator **SCHNEIDER**: Thank you, Madame President. I'd just like to say that during this public hearing never once was there any suggestion of actually extending the school day and lengthening the week. That concerns me because, as we fall further behind as a country in our education of young people, this is the direction we should be thinking about going. Why has that not been brought to our attention? Costs. If you think that this is actually going to advantage children's educations, which is what we should all be concerned with and certainly on this committee it is what I concern myself with, then we should support the pending motion. Thank you.

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

Senator **NUTTING**: Thank you, Madame President. Ladies and gentlemen of the Senate, I'll be very, very brief. I've had school boards in my Senate district that they would like the opportunity, as part of a pilot project, to participate in a different type of school schedule. It was that particular district that was referenced in the bill as the school that, due to the weather, had 13 days they did not have school for the safety of the kids. It really raised the devil with trying to graduate and state meets and trying to still go to school. They'd like the opportunity to attempt to be part of a pilot project to look a long-day, to look at a four day week, as something to experiment with, especially in the winter. Thank you.

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

Senator **WESTON**: Thank you, Madame President. Men and women of the Senate, the good Senator from Cumberland, Senator Alfond, did raise that there was one parent that did come. We all know that this could possibly be an issue. I would like to see that issue, of schedules of homes and babysitters, settled at the local level. This is not going forward without your superintendent and your school board bringing it to the people in that school district. It is simply an option. What the Minority Report B does is only a tiny tweak that will be used minimally in order to get an opportunity to see if something better works for

your school district. We would need to reject this motion and move on to the Report A. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, first of all, there was talk of adding one hour and ten minutes to each school day. In order to have an equivalent amount of days and hours, you must add to the school day in hours because nothing changes. I told you the standard of 175 student days must be met by the hours that are met now. Indeed there was talk of how to do it. I might say that I did say that I would hope that, as a teacher, they would take a look at all the Monday holidays that you have off anyways and use that, not Fridays. At the public hearing there were two groups that testified in favor; the Maine School Management and the Maine State Principal's Association. They both testified in favor. There were three people on this bill that testified neither for nor against. The state school boards, it was the department itself and the citizen we were talking about who has a child with autism and wanted to be sure that their child did not lose extra time in a weekend. She had called me prior to that. She had testified against another bill and changed her testimony to neither for nor against with mine. The only group to testify in opposition to this was the Maine Education Association. We had a group of people in favor, policy makers, talking about education. Fifteen minutes a day, if you are making up days missed because of weather, as a teacher does me absolutely no good. A full block of time for kids I can teach. Other teachers can teach. This simply becomes a matter of a community sitting down; communities that have to bring in outside contractors for physical therapy and occupational therapy. Communities that have to bring in outside contractors for physical therapy and occupational therapy may take their students on that day and have school for them in order to have one day and save money. We don't know. I can't tell you that Biddeford will look the same as Lubec. Of course it won't. Didn't we learn that from consolidation? What was going to save money didn't save money. The 20% is a minimum. If you cut school down four days you'll have buses on the road five days and you take away one day, there is a 20% savings. I've not figured in any savings for having the schools in weekend mode with heat down for three and a half days. The 20% was mentioned at the hearing because it was in my testimony. This is a request. If it doesn't fly, it doesn't fly, but I can go home and say to my people I tried. There was an article in the paper stating my superintendent in Saco said it's an idea that needs to be discussed. We should not be afraid of discussing things. We should have faith in our communities that they will do what is right by their children. They always have, they will continue to do that. Please remember, 80% of a given community, an average of 80%, has no connection to the schools. I would ask you to allow this. By the way, the committee was correct in doing this, I think. On the other report they said this could not happen without a public meeting of the school. This is truly grassroots, what's good for our kids and our communities. Thank you.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, sometimes a tweak is a good thing. I've

read both amendments for the first time this morning. Unfortunately, in order to address the issue, I have to speak about both documents because that is what is in contention this morning. What is really going on here is if we are going to have a four day school week with much longer days, an hour and whatever, an hour in fifteen or an hour and a half, or are we going to just permit a tweak, a minor adjustment, to accommodate one of the complaints that was brought forward to the committee about making up school days and not interfering with graduation and so forth. My mother was a teacher, my grandmother, both of them, and two of my daughters. I have, on occasion, been asked to come into the classroom to entertain kids for a few hours at a time. I don't know about you, but when I'm invited in by 8:30, by noon I am utterly exhausted. I'm drained and I have no idea what I would do if somebody said you've got another two hours to go in the afternoon. I'd want a lot more than \$35,000 a year, probably. I'm not sure if I could do it. I'm told by professional teachers that after a couple of years you get used to it. I don't know what that means, but they are able to sustain that measure of intellectual engagement with those kids and get through a six or six and a half hour school day. The idea that we are going to get through an eight hour school day and keep those kids engaged until 3:00 or 3:30 in the afternoon, that the teachers are going to be on high and ready to deal with them, is beyond my comprehension. I thoroughly oppose this. I think these kids ought to be outdoors by 3:00 in the afternoon, kicking a soccer ball around or running around a track or out two and a half miles going cross-country through the woods or playing basketball or doing something to let off energy. The idea of cooping these kids up. We've all heard about what's happening to the chickens in Turner, right? We're cooping them up. I'm not supposed to get into agricultural issues, I gather. I can't think of a worse fate for our schoolchildren than to coop them up for seven or eight hours straight. Even these hour and a half classes they have now, I can't focus on anything for an hour and a half, as you all know. I don't like these long school periods, but that is another subject. I certainly don't like a longer school day. I think a longer school year would be very appropriate, as you all know. Adding a few days onto the schedule would be, I think, a smart thing to do to catch up, not even to catch up but just to stay up with the Taiwanese and the Japanese and the Europeans. The idea of trying to extend it, allowing our school district to save a few shackles on bus transportation in order to extend the school day into something of a marathon, is beyond what I think is good educational policy. Bear in mind, although we all need to respect local control and the policy setting functions of the school boards, we are the state legislature. We have a responsibility to all 200,000 of those kids to set policy and it seems to me we ought to be setting policy today by adopting, what I regret to say, the Minority Report that lies before us this morning. Thank you.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I don't have much to add after my colleague over on the other side spoke except that I had requested to speak because I have some experience as a parent in this kind of situation in the city of Auburn. We have half day Wednesdays. As a parent and an observer of my child's classmates growing up, a lot of them go home most days after school and they have a couple of hours on their own until their

parents get home from work. On Wednesdays they go home at noon and are alone until 6:00 pm. I am supporting Committee Amendment B and I am profoundly opposed to Committee Amendment A because for those families who are struggling to have to pay for one day of childcare, let alone try find a childcare provider who is going to be available for those families for only one day a week, I think would be an impossible task. I think Committee Amendment A is just a terrible direction and I urge you to join me in supporting the pending motion. Thank you.

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

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

Senator **SULLIVAN:** Thank you, Madame President. I just wanted to thank the good Senator from Somerset, Senator Mills, for the comic relief. Somehow I would not want you in my classroom for even fifteen minutes because we all know that your mind is much too quick. Somehow we do get used to it and I'll tell you, at 60, I'm too old to be in the classroom. Having said that, I agree wholeheartedly. Kids should be outside playing and running but unfortunately they sit in front of two screens; one is called a TV and the other is called a computer screen. What they do is go home and lock themselves in and play that. Unfortunately, we don't understand the value of outdoor and indoor activity. Perhaps that would be something the school system would do. I just want to remind you, and I didn't intend to go on like this because, quite frankly, there are many problems to it. I don't deny that. You might try this only for winter. My school system that I teach in, back in 1979, shut down for an entire month because they were under a spending cap and there was no way they could do it. That was an entire month out of school. It was February they chose, so it was three weeks. February is shorted up. That was huge. I would ask the good Senator that if you think it's bad teaching six hours or six and a half hours now, don't try it in a hot June when you can't open the windows. I would be opposed to extending the school year. I would start school way much earlier, in August when you can open the windows and it cools down at night because, I will tell you, middle school has a lot of sweaty little bodies. By the end of the day, it's not pleasant. People don't learn in that atmosphere. You need to know that. Nothing is perfect. This is a chance for people to talk about what is good because we do need to find different ways of doing business. This may not be the way, and I'm fine with that, but we must be open to different ways. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, just sitting here thinking about this four day week. I've had experiences with this in logging. Long ways in the woods, working long days, and having three days off. There are parts to it that I can see in an educational setting that would be good. Other parts I can see that wouldn't be that great. What I do think, at least in the areas that I represent and especially with consolidation, is that we're making it further and

further for children to be bused to schools. The days are already quite long. My kids have close to an hour trip in the morning and in the evening. Under this proposal they might be an other hour or so longer. What really concerns me is that everyone is struggling with the money aspect of it and if you lay this out there as an option, I would say it's going to be taken ten out of ten times because it probably would save money in the end. Unfortunately, I don't think it's actually the best educational policy, as the Senator from Somerset, Senator Mills, has referred to. What I've seen over and over, during at least my time, is that as people have had children and had them go through school and graduate, not always but more often than not, once they graduate they're not as concerned about the educational policies as they were when their kids were going there. I see that year after year at school budget meetings. People that, in the past, were inclined to support the budget, now that their children aren't there, aren't as concerned. I really think, at least in the areas that I represent, that more often than not they would choose the four day week just because of the money that it would save. I'm not saying that this might not be something that the state might want to look at, but I would rather see the Education Committee have an opportunity to maybe look at this over a period of time and come up with the best policy because if you just throw it out there I think we're going to have a mish mash of policies that probably aren't going to be best for our kids. I do think it's important that we keep that in mind.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alfond to Accept Report "B", Ought to Pass a Amended by Committee Amendment "B" (S-32). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#40)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, PERRY, RECTOR, SCHNEIDER, SIMPSON, SMITH, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: DAMON, HASTINGS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SHERMAN, SULLIVAN, WESTON

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **ACCEPT Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-32), PREVAILED.**

READ ONCE.

Committee Amendment "B" (S-32) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

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

Off Record Remarks

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

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

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

On motion by Senator **BARTLETT** of Cumberland,
RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/31/09) Assigned matter:

Bill "An Act To Create the Support Animal Welfare Registration Plate"

S.P. 64 L.D. 178
(C "A" S-8)

Tabled - March 31, 2009, by Senator **DAMON** of Hancock

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, March 31, 2009, **READ A SECOND TIME.**)

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

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

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#41)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFSKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SMITH, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: None

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

Sent down for concurrence.

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

JOINT RESOLUTION - relative to memorializing the President of the United States and Congress of the United States to Sign Legislation that Establishes a National, Universal, Single-Payor Nonprofit Health Care Plan

H.P. 1004

Tabled - April 8, 2009, by Senator **COURTNEY** of York

Pending - **ADOPTION**, in concurrence

(In House, April 7, 2009, **READ** and **ADOPTED.**)

(In Senate, April 8, 2009, **READ.**)

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

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

Senator **RAYE:** Thank you, Madame President. I rise to speak very briefly to the issue at hand. This is, I think, unfortunate that we are in the position of having to consider this issue because we

are in a situation where our country is facing a major issue. We know that Congress is preparing to handle it in what we hope will be a thoughtful and bipartisan fashion. Yet we have before us a Resolution that asked the Congress and the President to pass a very specific measure that actually cites an HR from the last Congress asking that it be passed, or one substantially similar to it. I think it's unfortunate that we would inject ourselves into that debate in this fashion. It is doubtful to me that there are many members of this chamber who have read House Resolution 676 from the last Congress. While I think I would be pleased to stand in support of a resolution if were simply calling upon the Congress to address, in a thoughtful and bipartisan fashion, the very important issue of health care reform, I cannot support the resolution that is before us and I would hope that members of the Senate will join me in voting against the pending motion.

THE PRESIDENT: The pending question before the Senate is Adoption, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#42)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, NUTTING, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, TRAHAN, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, **ADOPTED**, in concurrence.

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

SENATE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Beaches in Maine's State Parks" (EMERGENCY)
S.P. 26 L.D. 67

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-38)**

Tabled - April 8, 2009, by Senator **RAYE** of Washington

Pending - **ACCEPTANCE OF REPORT**

(In Senate, April 8, 2009, Report **READ** and **ACCEPTED**. On motion by Senator **RAYE** of Washington, **RECONSIDERED ACCEPTANCE** of Report.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#43)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, MILLS, NUTTING, PERRY, RAYE, RECTOR, SCHNEIDER, SIMPSON, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BRYANT, COURTNEY, HASTINGS, MCCORMICK, NASS, PLOWMAN, ROSEN, SHERMAN, SMITH

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, the **OUGHT TO PASS AS AMENDED** Report, **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-38) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (3/26/09) Assigned matter:

Bill "An Act To Protect Consumers from the Unlicensed Practice of a Trade or Profession"
H.P. 135 L.D. 156

Tabled - March 26, 2009, by Senator **COURTNEY** of York

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, March 17, 2009, **PASSED TO BE ENGROSSED**.)

(In Senate, March 26, 2009, **READ A SECOND TIME**.)

On motion by Senator **COURTNEY** of York, Senate Amendment "C" (S-43) **READ**.

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

Senator **COURTNEY**: Thank you, Madame President. Men and women of the Senate, I'll try to be very brief with the hour and I'm reluctant to get up, as most of you know, on this unanimous report. I have a tremendous amount of respect for the committee and the work that they did. I agree that the effort that they are making to try to get our arms around the unlicensed practice of a trade or profession. It's very, very important. However, when I started to read through it, and I looked at the minimum penalty which went from \$100 to \$1,000 with a maximum of \$2,000 to \$5,000, I thought that was kind of excessive. If your neighbor comes over and he's good enough to help you fix your light switch and there is a problem later on down the road, and a minor thing or maybe you have an inspection from a fire inspector or something like that, somebody trying to do a good deed could be subject to a penalty of \$1,000 and possibly \$5,000. This amendment that I put forward tries to respect the intent of the committee, which I believe was to get their arms around unlicensed practices, and try to inject a little commonsense into it. The amendment would only require the penalties which the committee has put forward in a case where there was \$500 or more paid to a person for performing the service. If somebody was trying to help you out, we're going to maybe honor the tradition in Maine where we have a lot of handymen and women out there. I would request your support for this amendment. I don't want to go home and try to tell people why we raised the penalty from \$100 to possibly \$5,000. I think I might have a little trouble explaining it. I hope that you folks will consider this. Thank you.

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-43).

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

Senator **SCHNEIDER**: Thank you, Madame President. Men and women of the Senate, not only was this a unanimous committee report but we had only proponents on this bill. What this is about is fairness and a level playing field for all people in trades and professions. Those are people who are following our laws that we set down. They want people, if they are engaged in electrical work or plumbing or what have you, to be on a level playing field, paying the same amount as everybody else. If a license is required, then everybody should have that same requirement. There should not be people doing this without a license. Whatever profession or trade it is. Those people who are engaged in this practice without a license are doing things illegally. These are laws that we set down. It is up to prosecutorial discretion of whether or not somebody would be fined. As the good Senator from York, Senator Courtney, said, a neighbor fixing a neighbor's outlet or what have you, they would not likely be prosecuted for such an act, especially, I would like to say, if it is not done with a monetary exchange, which is one of the concerns that has been raised. This bill enables us to prevent people from practicing and engaging in unlicensed practice. It enables us to have enough of an onerous mechanism so that they will not be engaged in unlawful acts. This amendment is updated. It has been more than a decade since this amount has been changed. I hope that you will support the committee's unanimous report, which we all sought to find a good mechanism

to prevent unlawful practice in trades and professions. Thank you.

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

Senator **COURTNEY**: Thank you, Madame President. Men and women of the Senate, I promised you I would be brief and I will do my very best. The good Senator mentioned that only proponents spoke in favor of this and I guess what I would suggest is that we don't know who the opponents are yet. The opponents are the ones who are going to be calling us in the summer saying, 'What the heck did you guys do up there? I was just helping my neighbor out.' We also heard about prosecutorial discretion and they are not likely to be prosecuted. I'm always troubled when we pass laws that say someone is not likely to be prosecuted because it is the law and if they are doing their job they would prosecute. I think that we need to give them guidance with that and not let it come upon an individual's discretion. As far as fairness, I think a \$500 threshold seems more than fair. I think most of you know that I've put forward many amendments while trying to come up with something that would be satisfactory to the committee and the good Chairwoman from the BRED committee, but I've been unsuccessful. I do think, as far as fairness, when you go home and talk to people in your districts you will be able to say that this is fair and that you also accomplished the goals of the committee to give an element of fairness to the people that know how to perform major services. Thank you.

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

Senator **BARTLETT**: Thank you, Madame President. I rise in support of the pending motion. As the debate went on and the concern that people have been having about neighbor helping neighbor and somebody helping somebody else do work around their house, I decided I ought to go back and look at the bill and see whether it really covers that or not. I believe that it does not. The bill is very short. If you read the beginning of it, it indicates that any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by this title or after a license has expired, been suspended, or revoked. Then it will lead to the penalty. We are only talking about people who are practicing a trade or holding out to the public that they have the authority or license to practice that trade. Someone simply coming over to help out a friend around the house or to do a little work for a neighbor, that won't be the case. They won't be practicing a trade or representing that they are. I think the people we are most concerned about aren't covered and we should not hesitate to move on with this bill.

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

Senator **COURTNEY**: Thank you, Madame President. I certainly agree with the Majority Leader with regards to representing, but I think when I read through this it was any person that practices or represents. I looked at it as when you perform a function, you are

practicing that function. I think it deserves a little more clarity. I would hope that you will support the amendment. Thank you.

The Chair ordered a Division. 22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-43), **PREVAILED**.

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

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

Senator **GOOLEY:** Thank you, Madame President. I rise as a consulting forester who practices with constituents and recipients of my services. My services probably run anywhere from \$200 up to \$1,000 or maybe \$2,000. Being a consulting forester, it's interesting that there are some loggers throughout the state of Maine who will go out and do certain services that might be estimating timber, that sort of thing. It becomes a large gray area as to what kinds of licenses they should have. In passing this I can see whereby loggers might have a problem and other people in certain professions might have a problem too. It becomes problematic, I guess even more so because the fines would be much higher. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#44)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HASTINGS, HOBBS, JACKSON, MARRACHE, MILLS, NUTTING, PERRY, RECTOR, ROSEN, SCHNEIDER, SIMPSON, SMITH, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, MCCORMICK, NASS, PLOWMAN, RAYE, SHERMAN

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED**, in concurrence.

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

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/7/09) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Lower the Cost of State Government in the Departments under the Purview of the Joint Standing Committee on State and Local Government"
S.P. 256 L.D. 681

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-29)** (1 member)

Tabled - April 7, 2009, by Senator **SIMPSON** of Androscoggin

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

(In Senate, April 7, 2009, Reports **READ**.)

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise this afternoon to ask you not to support the pending motion so we can go on and accept the Minority Ought to Pass Report. In summary, I don't think the people of Maine can afford the amount, the level, of State spending we have going on here in Maine in the whole area of political appointees, legislative liaisons, supervisors, commissioner special assistants, assistant deputy commissioners, etcetera. This is my 17th year in the legislature. I've noticed in that period of time Chief Executives of all persuasions, Republicans, Democrats, and Independents, slowing adding positions year after year at these levels of state government. Four years ago I sponsored a bill with the late Representative Holman to have the State look at our administrative costs. The Appropriations Committee worked on this. The bill called for \$10 million in savings. The \$10 million was not achieved but savings were achieved. A start was made. Then in May 2008 OPEGA issued their State Administrative Staffing Report. It pointed out on page 10 that Iowa has reduced the number of political appointees and supervisors by 30% in their government in order to achieve savings without affecting those directly interacting with the public. On page 13 of the report it talks about the fact that in 1996 over 1,350 state positions state positions were eliminated as part of the Productivity Realization Taskforce. I was here for that. We did make a lot of job eliminations. 20% of those positions eliminated were in the managerial/supervisory slot. I supported that as well. The OPEGA report goes on to say on page 13 since 1996 the number of State employees has remained virtually the same; 13,207 to 13,212. I think that is remarkably good. However, the positions in this particular subset of political appointees, supervisors, managers, that column is increased from 1997 to 2007 by 43.9%. The number of positions then were 453 and in 2007 was 652. We're facing very tough economic times. I think everybody

realizes that. I think things are getting, unfortunately, worse as we go on. I think that so many times our cuts are based on frontline cuts, who is directly interacting with the public. As the Kennebec Journal editorialized this year in January, don't we in state government have the wrong people proposing cuts to state government. The title of their editorial was that supervisors shouldn't be proposing the cuts because they are not proposing to eliminate any of their positions. This Minority Report states that we are going to achieve savings by eliminating, in the first part of it, four positions in the Governor's Office. As you can see by my handout, the last year of the Governor King administration the Executive Department spending was \$2,650,000. Currently the Executive Department's spending is \$2,733,000. These numbers came from OFPR. If you back out the five positions that are still part of the Executive Department under the Health Policy Initiative, you still have spending under this Chief Executive that is almost \$300,000 more than any previous Chief Executive. Every Governor in previous years has always had one legal counsel. Now we have a legal counsel and a deputy legal counsel. Every Governor in previous administrations has had a Chief of Staff. Now we have a Chief of Staff and a Deputy Chief of Staff. Every Governor in the past has had one person in the press office handling press. Now we have three in the press office. To me, as we are telling hospitals we can't fund them and by DHHS's own account we have 2,200 people with mental illness that no longer receive services, when I compare new spending like this to those that can't help themselves that we're cutting these, to me it is clearly a choice that we need to look harder at this level of state government.

The next part of my handout is the service centers. Part of the Appropriations' work on this subject two years ago for the first time, they each received a very thick notebook of every supervisor in state government and every frontline employee so they could see the relationship between the two. You could see where there were duplications in state government. If you look at the service centers, and I got this from an e-mail from a constituent of mine that works at one of the service centers. We have the general government service center, the securities employment service center, natural resources service center, and the DHHS service center. A great number of managers for a small number of people in that particular pod. If you look at the corrections service center and the DOT service center, to me those are set up as they should be. Properly. No other state, no business, that I know of is going to set up a service center with nine supervisors for thirty-seven people. It's just too top heavy. If you read the quote from my constituent, there are ten new positions that have been created with top salaries of over \$73,000 and several new layers of supervisors and managers that are classified as confidential, which results in the state contributing 100% of the retirement funds for those positions. This is, to me, spending that hasn't been looked at hard enough. This bill helps in these departments, to say to the public that we've looked hard at this area. We can't afford this level of spending. We realize it's probably better spent helping those that can't help themselves.

The last thing in the hand out is something I received in my mailbox just a few days ago. I found it quite troubling. I was very encouraged at the State of the State speech from our Chief Executive where he said that we need to leave no stone unturned to look for savings. I support that. Yet in this e-mail dated March 2nd, the last paragraph, as I read it, says we're going to circle the wagons. This last paragraph, to me, reads we're going to circle the wagons. We're not going to cut any political appointee

positions. Well that may be their position. I think that should be their public position. I think, for me, this is a choice. A very difficult choice, but a choice nonetheless. Do we want to have new spending in these layers of state government or would it be better suited to take this amount of money and put it towards helping those that can't help themselves? Thank you, Madame President.

Same Senator requested a Roll Call.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, it pains me to rise in opposition to my good colleague from Androscoggin County, but I'm afraid I must. I first want to thank him for bringing this bill forward. Some of these areas that he's touched upon were things we've done in the budget, but not all of them had been looked at in quite as much depth, which gave us the opportunity to have that conversation. Back in 2006, because of budget constraints, the legislature had the wisdom of consolidating these offices from all the different agencies into one creation of the service centers. That eliminated thirty positions in state government, including twelve upper level management positions. In the last biennium, because we were still having hard times, ten positions were eliminated from the service centers. This proposal to eliminate another nine goes a little too far. In fact, in our budget this year we eliminated four more. It's not necessary to go this far. They won't be able to perform their functions. As to the Executive Branch of government, I think it's inappropriate for this branch of government to micromanage the Executive's team. That being said, this Executive has eliminated seven positions over the last six years and has, if you back out as my colleague had mentioned, the Health Policy staff from his office, the Executive has fewer positions than any of the previous Governors in the last twenty years. I thank him for bringing it forward. It gave us an opportunity to look in more detail, but that being said, the committee, in a 10 - 1 report, thought that this would just be going a little too far. I urge you to support the pending motion. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#45)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, PERRY, SCHNEIDER, SIMPSON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY,
HASTINGS, MCCORMICK, MILLS, NASS,
NUTTING, PLOWMAN, RAYE, RECTOR, ROSEN,
SHERMAN, SMITH, SULLIVAN, TRAHAN,
WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

On motion by Senator **BARTLETT** of Cumberland,
ADJOURNED, to Thursday, April 9, 2009, at 10:00 in the morning.