

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

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

In Senate Chamber
Wednesday
May 13, 2009

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

Prayer by Pastor Peter Sheff of Abundant Grace Church in
Searsmont.

PASTOR SHEFF: Thank you, Madame President. Every bill considered by this Body begins with the words 'In the year of our Lord'. So praying, Lord, acknowledging Your Lordship, we pray with grateful hearts, though sometimes hardened by our circumstances, by our ignorance of who You are, or our human dispositions and prejudices, we pray to You, Lord of all. We acknowledge this morning that it is You, Lord, who raises one up and puts another down. We pray that You would remind each one here that they are here not because of party affiliation or even voter favor but by Your sovereign will alone. We acknowledge, Lord, that a society where everyone does what is right in his own eyes will not long be a free society. Help us to be reminded and guided by those timeless principles and truths found alone in Your personally autographed and timeless record, the Bible. We acknowledge, Lord, that it is from You that we have received our material blessings, our minds to think, and voices to speak. Let us use those blessings to bless You with right and godly decisions and judgments today. When there is disagreement, remind us that the greatest of these is love. Remind us, Lord, as was said by a leader at another time and place, that those who elevate the state and downgrade the citizen must see ultimately a world in which earthly power can be substituted for divine will and this nation was founded upon the rejection of that notion and upon the acceptance of God as the author of freedom. Finally, Lord, we who are here today have no assurance but by Your grace and sovereign goodness that we will be here tomorrow. We pray that, by Your grace, that You will guide these men and women in their deliberations today and that all that is done here today brings You glory, for it is in the name of our Lord, Jesus Christ, that we pray. Amen.

Reading of the Journal of Tuesday, May 12, 2009.

Doctor of the day, Dr. Challa Reddy, MD of Dexter.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Developmental Services Regional Sites, a Major Substantive Rule of the Department of Education (EMERGENCY) H.P. 68 L.D. 78

Majority - **Ought to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-94)** (5 members)

In House, April 16, 2009, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

In Senate, May 5, 2009, Resolve and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

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

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

COMMUNICATIONS

The Following Communication: S.P. 558

STATE OF MAINE
124TH MAINE LEGISLATURE

May 12, 2009
Sen. Justin L. Alfond
Senate Chair, Joint Standing Committee on Education and Cultural Affairs
Rep. Patricia B. Sutherland
House Chair, Joint Standing Committee on Education and Cultural Affairs
124th Legislature
Augusta, ME 04333

Dear Senator Alfond and Representative Sutherland:

Please be advised that Governor John E. Baldacci has nominated Andrea Levinsky of Portland for appointment as a Student Member of the State Board of Education.

Pursuant to Title 20-A M.R.S.A. §401 (1), this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Change of Committee

The Committee on **TAXATION** on Bill "An Act To Encourage Renewable Energy Investment"

H.P. 660 L.D. 958

Reported that the same be **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

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

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in concurrence.

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Allow Law Enforcement Officers To Obtain a Personal Recognizance Bond in Certain Cases"

H.P. 419 L.D. 581

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-239)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-239)**.

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

READ ONCE.

Committee Amendment "A" (H-239) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Exempt Protection from Abuse Orders from the Notification and 30-day Waiting Period Requirements under the Uniform Enforcement of Foreign Judgments Act"

H.P. 563 L.D. 827

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-240)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-240)**.

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

READ ONCE.

Committee Amendment "A" (H-240) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Regarding Overnight Parking of Recreational Vehicles"

H.P. 98 L.D. 114

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-222)**.

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STUCKEY of Portland
EVES of North Berwick

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

Signed:

Representatives:
JOY of Crystal
LEWIN of Eliot
STRANG BURGESS of Cumberland

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended** Report.)

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

Reports **READ**.

Senator **BRANNIGAN** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **RAYE:** Thank you, Madame President. I rise in support of the motion and I request a roll call.

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

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Alter MaineCare Benefits as Allowed by the Federal Deficit Reduction Act of 2005"
H.P. 730 L.D. 1055

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

Signed:

Senators:
BRANNIGAN of Cumberland
MARRACHÉ of Kennebec

Representatives:
PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-258)**.

Signed:

Senator:
MILLS of Somerset

Representatives:
JOY of Crystal
LEWIN of Eliot
STRANG BURGESS of Cumberland

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.)

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

Reports **READ**.

Senator **BRANNIGAN** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Support for Children with Special Needs in Adoptive Families"
H.P. 739 L.D. 1072

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

Signed:

Senators:
BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:
PERRY of Calais
JONES of Mount Vernon
SANBORN of Gorham
LEWIN of Eliot

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-244)**.

Signed:

Representatives:
PETERSON of Rumford
JOY of Crystal
CAMPBELL of Newfield
STRANG BURGESS of Cumberland
STUCKEY of Portland

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought To Pass as Amended** Report.)

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Authorizing a Scratch Ticket with Proceeds To Benefit Native American Boys and Girls Clubs" H.P. 867 L.D. 1248

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

Signed:

Senators:

- SULLIVAN of York
- GOODALL of Sagadahoc
- PLOWMAN of Penobscot

Representatives:

- BEAULIEU of Auburn
- PINKHAM of Lexington Township
- VALENTINO of Saco
- TRINWARD of Waterville
- FITTS of Pittsfield
- CAREY of Lewiston
- NASS of Acton
- RUSSELL of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-242)**.

Signed:

Representative:

- CORNELL du HOUX of Brunswick

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Clarify the Role of the Public Advocate" H.P. 657 L.D. 954

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-165)**.

Signed:

Senators:

- HOBBINS of York
- BOWMAN of York
- SHERMAN of Aroostook

Representatives:

- THIBODEAU of Winterport
- DOSTIE of Sabattus
- FLAHERTY of Scarborough
- HINCK of Portland
- FLETCHER of Winslow
- FITTS of Pittsfield
- WAGNER of Lyman
- VAN WIE of New Gloucester

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

Signed:

Representative:

- BLANCHARD of Old Town

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-165)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate at Ease.

Senate called to order by the President.

Senate

Ought to Pass As Amended

Senator BLISS for the Committee on **JUDICIARY** on Bill "An Act To Consolidate and Modernize Maine's Courts"
S.P. 330 L.D. 882

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-154)**.

Report **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**.
(Roll Call Requested)

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow Limited Partnerships between Brewers and Wholesalers"

S.P. 269 L.D. 694

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

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc

Representatives:

BEAULIEU of Auburn
CORNELL du HOUX of Brunswick
PINKHAM of Lexington Township
VALENTINO of Saco
TRINWARD of Waterville
CAREY of Lewiston
NASS of Acton
RUSSELL of Portland
TUTTLE of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-152)**.

Signed:

Senator:

PLOWMAN of Penobscot

Representative:

FITTS of Pittsfield

Reports **READ**.

On motion by Senator **SULLIVAN** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing Legislative Ethics"

S.P. 365 L.D. 982

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

Signed:

Senators:

GOODALL of Sagadahoc
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CORNELL du HOUX of Brunswick
PINKHAM of Lexington Township
TRINWARD of Waterville
TUTTLE of Sanford
FITTS of Pittsfield
CAREY of Lewiston
NASS of Acton
RUSSELL of Portland
VALENTINO of Saco

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-153)**.

Signed:

Senator:

SULLIVAN of York

Reports **READ**.

On motion by Senator **SULLIVAN** of York, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

SECOND READERS

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

House

Bill "An Act Regarding Claims for Civil Perjury"

H.P. 486 L.D. 703

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

House As Amended

Bill "An Act To Establish the Crime of Motor Vehicle Violation Resulting in Death"

H.P. 329 L.D. 441
(H "A" H-185 to C "A" H-78)

Bill "An Act To Exempt Snowmobiles Operated at Demonstration Events from the Requirement of a Maine Registration"

H.P. 452 L.D. 638
(C "A" H-234)

Bill "An Act To Require a Moose Permit Lottery for Residents Who Have Never Had a Moose Permit"

H.P. 560 L.D. 824
(C "A" H-235)

Bill "An Act To Ensure Adequate Insurance Coverage for Family Child Care Providers"

H.P. 614 L.D. 896
(C "A" H-214)

Bill "An Act To Allow Lobster License Exemptions to Persons with Certain Medical Criteria"

H.P. 697 L.D. 1009
(C "A" H-217)

Bill "An Act To Establish the Maine Broadband Commission" (EMERGENCY)

H.P. 700 L.D. 1012
(C "A" H-229)

Bill "An Act To Facilitate the Marketing of Power Produced by Small Generators"

H.P. 769 L.D. 1114
(C "A" H-226)

Bill "An Act To Institute Voluntary Emissions Standards for Outdoor Wood Boilers"

H.P. 810 L.D. 1171
(C "A" H-228)

Bill "An Act To Provide Grants to Public Educational and Municipal Entities for Feasibility Studies of Renewable Energy Projects"

H.P. 949 L.D. 1348
(C "A" H-227)

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

Senate

Bill "An Act To Eliminate the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund" (EMERGENCY)

S.P. 80 L.D. 239

Bill "An Act To Clarify the Law Regarding the Passing of School Buses by Bicyclists"

S.P. 422 L.D. 1131

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Recognize Maine Youth Camps"

S.P. 182 L.D. 479
(C "A" S-148)

Bill "An Act To Amend the Tax Exemption Regarding Leased Property"

S.P. 205 L.D. 545
(C "A" S-142)

Bill "An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer"

S.P. 235 L.D. 621
(S "B" S-151 to C "A" S-100)

Bill "An Act To Promote Cost-effective and Broad-based Vision Care for Maine Citizens by Clarifying the Scope of Prescription Authority by an Optometrist"

S.P. 258 L.D. 683
(C "A" S-147)

Bill "An Act To Provide Transparency Concerning Operating Expenses for Hospitals"

S.P. 273 L.D. 724
(C "A" S-149)

Bill "An Act To Encourage Clean Fuel Vehicle Economic and Infrastructure Development by Extending the Tax Credit" (EMERGENCY)

S.P. 307 L.D. 799
(C "A" S-143)

Bill "An Act To Capitalize the Municipal Investment Trust Fund with Municipal Revenue-sharing Resources"

S.P. 316 L.D. 808
(C "A" S-144)

Bill "An Act To Expand the Moose Hunting Season"

S.P. 351 L.D. 929
(C "A" S-140)

Resolve, To Establish a Study Commission To Review Tax Increment Financing in the Unorganized Territory (EMERGENCY)

S.P. 426 L.D. 1154
(C "A" S-146)

Bill "An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities"

S.P. 481 L.D. 1335
(C "A" S-150)

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:

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Time Frame for Towns To Certify Citizen Initiative Signatures

H.P. 789 L.D. 1145
(C "A" H-176)

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

Emergency Measure

An Act To Ensure That Money from the Surcharge on Registration of Pet Food for the Sterilization of Animals is Received in a Timely Manner

S.P. 73 L.D. 223
(C "A" S-68)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Exempt Fuel Used by Commercial Fishing Vessels from the Sales Tax

S.P. 290 L.D. 743
(C "A" S-102)

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

Emergency Measure

An Act To Amend the Laws Governing the Maine Children's Growth Council

H.P. 671 L.D. 969
(C "A" H-159)

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

Emergency Measure

An Act To Require the Convening of the Professional Standards Board

H.P. 759 L.D. 1104

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds

H.P. 856 L.D. 1236
(C "A" H-197)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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.

**Pursuant to Constitution
Public Land**

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

H.P. 797 L.D. 1158
(C "A" H-194)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 31 Senators having voted in the affirmative and no Senators having voted in the negative, and 31 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 Amend the Special Education, School Health and School Nutrition Laws Regarding Scoliosis Screening, the School Lunch Program, Transitional Services, Gifted and Talented Education Programs and the Maine Mentoring Partnership Grant Program	H.P. 140 L.D. 161 (C "A" H-199)	An Act To Ensure Access to Public Information S.P. 206 L.D. 546 (C "A" S-119)
An Act To Clarify Expenditures and the Use of Department-generated Revenues within the Department of Inland Fisheries and Wildlife	S.P. 65 L.D. 179 (C "A" S-96)	An Act To Improve Child Support Collection Procedures by Changing the Process of Modifying a Support Order S.P. 229 L.D. 614 (C "A" S-105)
An Act To Require Businesses To Make Toilet Facilities Available to Individuals with Certain Medical Conditions	H.P. 186 L.D. 232 (C "A" H-186)	An Act To Allow the Donation of Certain Perishable Food Products to Nonprofit Organizations H.P. 485 L.D. 702
An Act To Change the Classification of Certain Waters of the State	H.P. 266 L.D. 330 (C "A" H-70)	An Act To Clarify the Rights of Public Employee Unions and Public Employers To Agree through Collective Bargaining To Permit Payroll Deductions for Union Dues or Other Funds S.P. 309 L.D. 801
An Act To Amend the Laws Governing MaineCare Estate Recovery Undertaken by the Department of Health and Human Services	S.P. 129 L.D. 365 (C "A" S-120)	An Act To Authorize an Active Retired Justice or Judge To Conduct Arbitration and Chair Medical Malpractice Screening Panels S.P. 311 L.D. 803 (C "A" S-106)
An Act To Amend the Laws Concerning Campaign Report Exemptions	H.P. 281 L.D. 374 (C "A" H-188)	An Act To Require Lobbyists To Wear Name Tags H.P. 568 L.D. 832 (C "A" H-189)
An Act To Amend the Limited Liability Company Laws Concerning Management Standards	S.P. 169 L.D. 466 (C "A" S-118)	An Act Relating to Geothermal Heat Exchange Wells H.P. 591 L.D. 860 (C "A" H-177)
An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2010	H.P. 348 L.D. 486 (C "A" H-109)	An Act To Limit Liability for Certain Noncommercial Aviation Activities S.P. 339 L.D. 889
An Act To Clarify a Municipality's Authority To Contract with an Animal Shelter for Services	H.P. 362 L.D. 517 (C "A" H-192)	An Act To Permit Brew Pubs To Sell Half-gallon Containers of Malt Liquor H.P. 622 L.D. 904 (C "A" H-181)
An Act To Require a Referee of a Land Dispute To Render a Decision within One Year	H.P. 372 L.D. 527 (C "A" H-191)	An Act To Amend the Licensing Requirements for Marriage and Family Therapists H.P. 668 L.D. 966 (C "A" H-198)
		An Act Concerning Dispute Resolution in Home Construction Contracts S.P. 403 L.D. 1085 (C "A" S-107)
		An Act To Define Services for Maine Runaway and Homeless Youth S.P. 418 L.D. 1127
		An Act To Clarify the Use of Instant Redeemable Coupons with Alcoholic Beverages H.P. 912 L.D. 1309 (C "A" H-190)

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 Establish a Distracted Driver Law
S.P. 15 L.D. 6
(C "A" S-126)

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

An Act To Bring Equity to the Sea Urchin License Fees
S.P. 95 L.D. 278
(C "A" S-123)

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

An Act To Protect Maine Residents from Home Fires and Carbon Monoxide
S.P. 212 L.D. 550
(C "A" S-98)

Senator **RAYE** of Washington requested a Roll Call.

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

An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention
H.P. 447 L.D. 633
(C "A" H-201)

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

An Act To Broaden the Use of the Land for Maine's Future Fund for Investments To Promote Public Access and Use of Conserved Lands and To Improve the Productivity of Conserved Farmlands
H.P. 632 L.D. 914
(C "A" H-193)

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

Resolves

Resolve, To Direct the Commissioner of Inland Fisheries and Wildlife To Explore Opportunities and Issues Surrounding Wild Turkey Hunting

H.P. 202 L.D. 256
(C "A" H-170)

Resolve, To Convene a Work Group To Design and Implement a Statewide Disposable Checkout Bag Reduction Campaign, with Benchmarks

S.P. 131 L.D. 367
(C "A" S-97)

Resolve, To Establish a Working Group To Increase Child Support Collections

S.P. 141 L.D. 399
(C "A" S-121)

Resolve, Regarding On-bill Financing Programs for Energy Efficiency

S.P. 306 L.D. 792
(C "A" S-111)

Resolve, To Require the Department of Environmental Protection To Review Emerging Technologies and the Laws Regarding Incinerators

H.P. 698 L.D. 1010
(C "A" H-178)

Resolve, To Study Aging and Outdated Long-term Care Facilities

S.P. 379 L.D. 1015
(C "A" S-116)

Resolve, Regarding Maine's Renewable Resource Portfolio Requirements

S.P. 395 L.D. 1061
(C "A" S-124)

Resolve, Directing the Board of Trustees of the Maine Criminal Justice Academy To Amend Its Minimum Standards for the Law Enforcement Use of Force Policy

H.P. 733 L.D. 1066
(C "A" H-200)

Resolve, To Improve Continuity of Coverage for Participants in Medicare Advantage Plans

S.P. 402 L.D. 1084
(C "A" S-94)

Resolve, To Provide Assistance to Private Sellers of Firearms

H.P. 782 L.D. 1138
(C "A" H-180)

Resolve, Directing the Secretary of State To Report on the Accuracy of Election Results

H.P. 809 L.D. 1170
(C "A" H-187)

Resolve, To Facilitate the Creation and Expansion of an Identified Business Sector

S.P. 434 L.D. 1186
(C "A" S-101)

Resolve, To Establish Uniform Protocols for the Use of Controlled Substances

S.P. 441 L.D. 1193
(C "A" S-108)

Resolve, To Name the Bridge in Orland the Ralston C. Gray Bridge

S.P. 486 L.D. 1351

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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 (4/30/09) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding Political Signs" H.P. 204 L.D. 258

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-133)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - April 30, 2009, by Senator **SULLIVAN** of York

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

(In House, April 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-133).**)

(In Senate, April 30, 2009, Reports **READ.**)

On motion by Senator **SULLIVAN** of York, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-133) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (4/30/09) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Lower the Cost of State Government in the Departments under the Purview of the Joint Standing Committee on Education and Cultural Affairs" S.P. 252 L.D. 677

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-103)** (5 members)

Tabled - April 30, 2009, by Senator **ALFOND** of Cumberland

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

(In Senate, April 30, 2009, Reports **READ.**)

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **ALFOND** of Cumberland **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Chair laid before the Senate the following Tabled and Later (5/5/09) Assigned matter:

HOUSE REPORTS -from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow Voters To Choose Ongoing Absentee Voter Status" H.P. 129 L.D. 150

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-182)** (6 members)

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

Tabled - May 5, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **GOODALL** of Sagadahoc to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED**, in concurrence (Roll Call Ordered)

(In House, April 30, 2009, Report "A", **OUGHT TO PASS AS AMENDED** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-182).**)

(In Senate, May 5, 2009, Reports **READ.**)

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, this bill is before the Legal and Veterans Affairs Committee and it basically allows a voter to elect, by sending a form to the clerk, that for every state and federal election they will automatically be mailed a ballot. First of all, one is the risk of confusion in a voter's mind. If they think they elect absentee ballot they may not show up for a municipal and school board elections because they may assume that they will be sent a ballot for those. Second, with the way our population moves, the towns will be mailing ballots to places where voters may not have remembered to unenroll from their status as an on-going absentee voter. The risk is that these ballots will come into the hands of people who don't, or shouldn't, ever be voting someone else's ballot. It incurs an automatic cost to the town because these ballots are not cheap to mail. It poses a risk to the integrity of an election. These are also first class mail that would probably be forwarded and they could be forwarded to another district where the person now lives. Upon voting an absentee ballot in the district where they were before, you may find out that they tried to actually vote the day of the election when they realized that they wanted to actually vote in their local elections. It causes some problems that I don't think we're ready to incur. It would save some paperwork on behalf of the clerks, but the way the absentee voting works that is the least amount of paperwork to process. I don't think we should be mailing out ballots when you don't know where they are going to arrive. I don't think we should be passing this bill. Later, when we take a roll call, I hope you will oppose the pending motion. Thank you.

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

Senator **GOODALL:** Thank you, Madame President. Men and women of the Senate, I rise today in support of the pending motion and wanted to just clarify for the record that this is in regards to a pilot program that will take place. A lot of the issues that were debated in committee, as well as the good Senator from Penobscot, Senator Plowman, will be ironed out in the pilot program. The voter must request ongoing absentee voting status through a written application. It's a very well liked program throughout the state. I just wanted to clarify those two points. Thank you, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, I would ask you to support the pending motion. First of all, the pilot program would be done only by those cities and towns wishing to participate. In many cases the process of absentee ballot for the communities that are very small causes them to have the additional paperwork and when you get an absentee ballot you must sign it and you must verify that it's to the right person. If it goes to the wrong person, if they sign a different name, seal it, again sign it, and send it back, the clerk will notice that and there is a huge penalty for fraud and for voter fraud and for forgery. This is a request from municipalities, if they want to, to try this out. I think this is clearly, again, those local people asking to please give them an opportunity to try this. The

municipalities and towns, some do not want to do it. Some do want to try. Let's find out if it works. A pilot program needs to be able to see if it works. If it does streamline, that seems to be the focus, streamlining and consolidation seems to be the buzzwords. Here we have some municipalities asking us for this. The Secretary of State's Office is asking for this. We're not doing that, so I think we ought to allow this. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you, Madame President. If a person requests an absentee ballot, it's mailed to them, and they decide not to use it is there a requirement that the ballot be returned to the clerk or does it just disappear?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. The process that is now used would not change at all. If somebody requests a ballot to be mailed to them and they don't use it the ballot just disappears. It is also filled out with the potential voter's name and all and the city clerks or town clerks must now match them up anyways. That is a requirement. The requirements that we have now about absentee ballots and returns and all of that will not change. That is not the piece; it's just the piece from notifying and crossing two and three requests back and forth for an absentee ballot. There are many people in communities who may spend the winters down south. They are much luckier than I am. Every year they have to remember to notify the town or city, municipality, and ask to get an absentee ballot. It has to be mailed out. They get it. It has to be mailed back in. This is a requirement if they know they are not going to be here and they say that until such and such a time they would automatically like to have that mailed to them. It would be for those people who are not here during election. They know they are not going to be here. They simply ask to save that motion back and forth. That's all.

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

Senator **TRAHAN:** Thank you, Madame President. May I pose one further question through the Chair to clarify what the previous speaker said?

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you, Madame President. The way that the previous speaker described it this ballot would have some kind of personal identification on the ballot? The way I understood it ballots were all the same and there was no way to identify who voted. The way you described this it appears to me that there was some kind of personal identification on the ballots.

Is the identification on the application and the envelope or on the ballot itself?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. I apologize for not making this clear. I'm sure the good Senator has seen the ballots. An absentee ballot, on the envelope, you must sign where you seal it with your name across the seal. If it is broken apart then the ballot is not allowed. The sealed envelope, then you sign it so it's very obvious that what's inside is from the person who signed it. That is law now. That's how we do it. The town clerk, city clerk, then checks the absentee ballot list. They see if the signature matches. It is opened, the envelope is thrown away, and the ballot goes in to be counted. There is still the privacy of your ballot, but there is the cross checking. That is what is done now. Nothing changes in that process.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, one small correction. The absentee ballot envelope is not thrown away. They are saved for recount purposes to make sure there are no materials left in the envelope. The process that came before us is that they are asking to establish a pilot program. Then we are told that the bugs will be worked out as the agency who asks for these pilot projects moves forward. Probably ten communities will go forward with this. I would not volunteer Hampden to be one of the communities if I were the clerk because I don't want one of my races to be the one that is questioned. Each time we ask a clerk about the signatures, and if the signatures match, I'm always reminded that we are not handwriting experts. We do the best we can. I learned recently, for example, that the forms that come in to request an absentee ballot are never checked against the card in the card box, which means that the ballot that is returned is matched against the request form and the request form is not matched against the card. Do I have a problem with that? Absolutely. My answer is that we are not handwriting experts. We trust people to the amount that we set for public policy. Because an agency comes before us and requests this, if it wasn't a public policy decision we would let them go ahead and then come back to us and say it worked well. That is not what our role is. Our role is to decide, and I don't want to lecture you but I'm going to, how much public policy do you hand off to the agency? We have agency rulemaking where, before the law goes into effect, the agency steps forward and says this is what they interpret our wishes to be. If it is major we get something to say in it. I don't need to tell you that either. What am I doing? I'm reminding you that the integrity is as important, and it's going to be the thing that I say over and over again as we debate this. Integrity in balloting is more important than access. It's as important; to me it's more important. If you cannot assure that the person holding the ballot, who receives the ballot, is indeed the person who should be voting the ballot then you have done a democracy no good. It's called ballot fraud, stuffing a ballot box. In other countries we get all upset when it happens. I guess it only happens in other countries. I don't want to expand and

expand and expand because it makes things easier. If making laws was supposed to be easier we wouldn't be here. We wouldn't have committees. We wouldn't have two Bodies. I understand there is some effort to make sure there is only one Body. It would make it easier. I wasn't going to say much on this issue. I really wasn't, but as we go down the path of access, access, access and we hear that this is what the people want, that's fine. When you turn to the people and say, 'I'm sorry, you are one of those ten towns and it seems a half-dozen ballots were mailed to people who died, moved away, their son voted it thinking it was his because he's the Junior and didn't see it was for Senior, and the guy who showed up to get a ballot has been told somebody voted a ballot in his name. Sure you can do the contested ballot, do you want to be the one that gets to vote a contested ballot when you are absolutely entitled to one?' Yes, it is a pilot project. Go right ahead. I'm hoping Hampden is not part of it. I'm hoping my seventeen towns don't chose to be part of it because when I look at election results, when the guy at the top of the list and the bottom of the list on the ballot looks at the election results, they want to know that everybody that voted should have had that ballot. It's not just us. Think about the selectmen and school board members. We always think about how it affects us. I think we owe every candidate and every voter the right to assure that the person who voted in the booth next to them or in the mailbox was just as entitled to that ballot as they are. Thank you.

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

Senator **GOODALL:** Thank you, Madame President. Men and women of the Senate, I just wanted to rise and state that our State of Maine has an incredible organization of municipal clerks who do a wonderful job. There have been no incidences of fraud that have risen to the level, at least in our committee, where we have been privy to any information where there has been any mistrust and fraudulent activity or any question to what the clerks do. Currently there is a process for when, if there is a race that has a recount, challenges take place during the recount procedure. I just wanted to clarify, I spoke very briefly earlier in regards to ongoing absentee voter status, you must have a written request for a waiver. If there is a death or disqualification of the voter that will end the ongoing absentee status. The cancelation of the voter's registration record in the central voter registration will cancel the ongoing status. A return of an absentee ballot as undeliverable in the mail will cancel ongoing voter absentee status. The designation of a voter status as inactive in the central voter registration will also cancel this. There are safeguards in place. The Secretary of State has put forth a good program. It is a pilot program. Any wrinkles there are in the system will be ironed out and municipalities will have to opt in. I encourage you to support this bill. Thank you, Madame President.

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

Senator **DAVIS:** Thank you, Madame President. Men and women of the Senate, I fear that we are expanding our voting to the point where we can't control it. I think there is a danger in this and I agree with the Senator from Penobscot, Senator Plowman. I once lived in a third world country. I think we are moving

towards that. I know in some African countries you just show up and stand in line. You don't have to prove where you live or who you are, you just vote. I this whole process is becoming too loose. 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. Since the founding of our country there has been a steady opening up of access to the ballot box because we've recommended that in a democracy there is nothing more important than assuring that everyone who is eligible to vote has the right to do so. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, no comments here were made to reflect badly on any of our clerks. They were very honest when they answered your questions. They were very honest in saying what their limitations are. I believe that the clerks are doing the best job that they can. They are not private investigators. They are using their commonsense, which is wonderful. Unfortunately, if someone wants to commit fraud they can. The fact is, after five years on this committee, my questions regarding fraud usually come to a frustrating end because, unless something is referred to the Attorney General's Office for prosecution, you will never hear about it. I have had quite a series of conversations with the clerks. None of my comments, and no comments by anyone here, should be considered as a slap in the face of clerks. I'm sure that was not the intended result, but I wanted to make sure that it was made clear. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Goodall to Accept Report "A", Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#72)

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

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

ABSENT: Senator: PERRY

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GOODALL** of Sagadahoc to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-182) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/5/09) Assigned matter:

Bill "An Act To Prioritize Funding in the TransCap Trust Fund" (EMERGENCY)

H.P. 654 L.D. 951
(C "A" H-123)

Tabled - May 5, 2009, by Senator **DAMON** of Hancock

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

(In House, April 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-123).**)

(In Senate, May 5, 2009, **READ A SECOND TIME.**)

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Lower the Cost of State Government in the Departments under the Purview of the Joint Standing Committee on Education and Cultural Affairs"
S.P. 252 L.D. 677

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-103)** (5 members)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, April 30, 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've had distributed to you a four page handout on this particular L.D. Again, I've had a lot of frustration with the number of political appointees and upper level government positions. I've debated that before. I won't state all of that again. This one, the Minority Report from the Committee on Education, proposes to eliminate the PR person in the Department of Education. You will see from this front handout from the Office of Program and Fiscal Review that this particular position was created at the beginning of school consolidation. It was felt as though the Department needed a PR position. I understand why somebody may have thought that, but my frustration here is that they took the money for this position from their pre-school handicap account. These are folks that go around to homes and assess two and three year olds to see if they need special help in our educational system. We've got these little handouts a few weeks ago with a little ribbon on the corner that said 'Thanks for remembering me'. Mine is from Emily, who is three years old. I'm frustrated that we took a whole position that used to do this work and now that position is not funded any more so fewer children are being assessed as two and three year olds to their needs for special ed. Pages two, three and four of my handout, you can see in the previous chart where the Communications Director for the Department is listed right there. Then you go to the third and fourth pages and it, all of a sudden on the next to the last page, isn't listed any more at all. Just a few weeks ago there was another revision that came out that has it listed way down and totally in a different department from where the position was even created. We are in unusual budget times. I'm still concerned that we cannot afford quite this level of State government in the times we are in. I'm reminded by our current Secretary of State's position, where he unfunded his Communications Director in order to save money without effecting the direct interaction with the public. He held up his Blackberry and said, 'This is my Communications Director.' It saved the State almost \$100,000. To me, if one department head can do something like this I think others should do something like as well. I would urge you to oppose the pending motion. Thank you very much.

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

Senator **ALFOND:** Thank you, Madame President. Men and women of the Senate, I rise and urge you to support the pending motion. It's very difficult for me to hear what the good Senator from Androscoggin, Senator Nutting, has said about the position that was cut. It's also very difficult for me to accept his suggestions of cutting these two positions. I'm sure you all have been paying close attention to the flu virus. The flu virus is all over. It's here in the state of Maine as well as all over the country. The Communications Director probably, I would suggest, put in more time than most in state government communicating directly with our schools, every single day, updating them on what is happening, and when a school had to close, going through the process with that community. Other responsibilities of the Communications Director, all of the communications that we find on the Education website. I know during consolidation every single superintendent goes to this

website, needing to find the most up to date communications from the Department of Education and that is one of the Communications Director's responsibilities as well as others. He is also involved with all of the media relations around the accountability of all of the funds coming in from the stimulus funds. Again, the Communications Director is something that I think is vital to the superintendents and to the Department of Education. The superintendent, when she came in to talk about this bill, said that in the past, without a Communications Director, typically by the time that she could get back to superintendents or to get back in touch with the media it would be 6 or 7 o'clock at night. I just don't think that's a way to do business. I think that superintendents need to get information quicker and I think the media needs to get information quicker. That is one of the positions.

The other position is a position that I think we all use almost daily. Any request that we, as legislators, put to the Department of Education the Legislative Liaison handles all of our requests. Every single thing. I know, personally as an incoming legislator, I have inundated the Department of Education with requests almost daily and this person responds to me, gets it back in a timely manner, which helps the committee and which helps, I think, most of you. In addition, he is in charge of all of the coordination with the educational budget. Everything that is happening with the budget he is in charge of. All of the freedom of information requests he is in charge of. He coordinates the Maine School Library Network.

Again, both of these positions, I think, have incredible value to the department, to the commissioner, and I would urge you to support the pending motion. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I will use that famous remark, I did not intend to rise. I'll try not to do that too often. It is very interesting to note a comment about this position, and why I didn't get up more promptly, about how great the communication is among the superintendents. We've gone through school consolidation the last few years and talked to a number of school superintendents. Almost to a man, or woman, they say you can't get anything out of the Department of Education, any kind of news. I'm glad it is serving the good Senator who is Chair of that committee, but I would suggest that the materials going out to the countryside is not too satisfying to the superintendents who are asking for information. Thank you very much.

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

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, this is one of those other rare occasions when we did a difference of opinion. I would just ask you to weigh some of the good things about more communications. That's certainly understandable. Weigh what our schools, what your superintendents, what your principals are having to do with the change in our general purpose aide to our schools. Then plan your explanation for why this position, public relations for the Commissioner of Education, is more important than a teacher in one of your schools. We always strive for balance here, good balance. This bill, I think, is good balance. It recognizes what is

happening and what will be even worse in the future for the funding for education and it recognizes the cuts need to be everywhere. I would urge you to support the Minority Report and in to be in opposition to this and say to your schools that you understand and that you are willing to make it a balanced cut everywhere. 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, in reviewing the Senate Amendment I want to add further information. The Minority Report just proposes to eliminate the PR position in the department. The Minority Report before us this morning does not propose to eliminate the Legislative Liaison. This is just one position. Thank you.

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

Senator **ALFOND:** Thank you, Madame President. When we began the budget here in January the Department of Education had to look inside of their budget and had to make cuts. They did make cuts. They have already cut three people from the Department of Education. Adding another cut at this time when we're getting all of the stimulus funds, working on consolidation, working around a flu epidemic, I just do not see the sense of cutting off communications from our biggest agency in the State of Maine to our communities where we are all touched by educational issues. It just doesn't make any sense and I have to disrespect, even with my good Senator from Androscoggin, about this issue. I think it is critically important. It is one of the few times that the Education Committee has been divided and I really urge you to support the 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 Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President. Point of inquiry?

THE PRESIDENT: The Senator may state his inquiry.

Senator **SHERMAN:** Thank you, Madame President. It is my understanding that the Department of Education has downsized itself by taking some staff people and putting them under a different account. I wonder if that is so?

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alfond to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#73)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, 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

ABSENT: Senator: PERRY

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report.

The Chair laid before the Senate the following Tabled and Later (5/6/09) Assigned matter:

Bill "An Act To Lower the Cost of State Government in the Departments under the Purview of the Joint Standing Committee on Agriculture, Conservation and Forestry"
S.P. 249 L.D. 674
(C "A" S-71)

Tabled - May 6, 2009, by Senator **BARTLETT** of Cumberland

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

(In Senate, May 6, 2009, **READ A SECOND TIME.**)

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, last week when I thought we were going to be dealing with this bill I had a handout from OPEGA handed out to everyone. It states that when they looked at the Department of Conservation that the number of total positions in the Department had stayed the same in the last ten years, from 1997 to 2007, but the number of confidential and appointed positions in that one department was up 25%. Our committee split on the Department of Conservation budget. Some of us felt that we needed to eliminate a couple of positions, political appointee positions, in the department and the rest of the committee felt that we needed to increase the taxation on the unorganized territories. It is my understanding that the

Appropriations Committee has dealt with this subject and has unanimously chosen to increase the taxes on the folks in the unorganized territory. I don't agree with that decision but it was a unanimous vote of Appropriations. I feel as if this bill is no longer needed because of the vote of the Appropriations Committee, a vote I might disagree with but a vote that I very readily accept. I guess the question I pose to the Chair, if I could, can I just make a motion to Indefinitely Postpone a bill because the pending motion is Passage to be Engrossed.

THE PRESIDENT: The Chair would advise that the motion to Indefinitely Postpone is in order.

On motion by Senator **NUTTING** of Androscoggin, Bill and accompanying papers **INDEFINITELY POSTPONED.**

Sent down for concurrence.

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

An Act To Establish a Distracted Driver Law
S.P. 15 L.D. 6
(C "A" S-126)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-126).**)

(In House, May 12, 2009, **PASSED TO BE ENACTED.**)

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

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

An Act To Bring Equity to the Sea Urchin License Fees
S.P. 95 L.D. 278
(C "A" S-123)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-123).**)

(In House, May 12, 2009, **PASSED TO BE ENACTED.**)

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

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

An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention

H.P. 447 L.D. 633
(C "A" H-201)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201)**, in concurrence.)

(In House, May 12, 2009, **PASSED TO BE ENACTED.**)

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

Senate at Ease.

Senate called to order by the President.

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Time Frame for Towns To Certify Citizen Initiative Signatures

H.P. 789 L.D. 1145
(C "A" H-176)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**, in concurrence.)

(In House, May 12, 2009, **FINALLY PASSED.**)

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

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

Emergency Measure

An Act To Exempt Fuel Used by Commercial Fishing Vessels from the Sales Tax

S.P. 290 L.D. 743
(C "A" S-102)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 5, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-102).**)

(In House, May 12, 2009, **PASSED TO BE ENACTED.**)

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

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Regarding Overnight Parking of Recreational Vehicles"
H.P. 98 L.D. 114

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-222)** (10 members)

Minority - **Ought Not To Pass** (3 members)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, May 12, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 13, 2009, Reports **READ.**)

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

Senator **RAYE:** Thank you, Madame President. I rise very briefly just to urge the Senate to accept this Minority Ought Not to Pass Report. This is something many of us have heard from our constituents about. We've heard from campers and Rvers all across the country that have threatened, I think, to give Maine a black eye in terms of being inhospitable to visitors and I hope that we will dispense with it with this vote. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#74)

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

NAYS: Senators: None

ABSENT: Senator: PERRY

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (5/12/09) Assigned matter:

Bill "An Act To Reduce Misuse of Woodlands by the Public"
H.P. 370 L.D. 525
(S "A" S-78 to C "A" H-62)

Tabled - May 12, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **RAYE** of Washington to **RECEDE** and **CONCUR** (Roll Call Ordered)

(In House, April 14, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-62).**)

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-62) AS AMENDED BY SENATE AMENDMENT "A" (S-78)** thereto, in **NON-CONCURRENCE.**)

(In House, May 7, 2009, Bill and accompanying papers **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE**, in **NON-CONCURRENCE.**)

(In Senate, May 12, 2009, Senator **BRYANT** of Oxford moved to **INSIST** and **ASK FOR A COMMITTEE OF CONFERENCE**.)

Senator **RAYE** of Washington requested and received leave of the Senate to withdraw his motion to **RECEDE** and **CONCUR**.

On motion by Senator **BRYANT** of Oxford, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

Off Record Remarks

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

Senator **RAYE** of Washington 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.

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

After Recess

Senate called to order by the President.

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

Bill "An Act To Prioritize Funding in the TransCap Trust Fund" (EMERGENCY)

H.P. 654 L.D. 951
(C "A" H-123)

Tabled - May 13, 2009, by Senator **RAYE** of Washington

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

(In House, April 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-123)**.)

(In Senate, May 5, 2009, **READ A SECOND TIME**.)

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, may I ask a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **NASS:** Thank you, Madame President. I'm somewhat confused by this. This proposal sounds very good, this proposal sounds wonderful. Everybody can agree to that. We should be designating and spending more money on capital costs with what little money we have for highways and bridges. However, I have roads in my district that are disappearing. They are the lowest grade of road. We have, on what we call the B-tip of the plan, on the plan to have that road repaved, or sometimes it's more or less black paint that they put on it, skinny mix or whatever they call it. A minor paving job. If I vote for this is that road going to get paved this summer? Are there plans to change the B-tip that was just passed out a couple of months ago? It sounds like that is what's happening here, but I have trouble figuring out if that's what this is really all about.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, in response to the good Senator's question regarding the painting or paving of his road, I doubt it. It certainly won't be done because of this or in spite of this. The situation that the good Senator is talking about, with all seriousness, is one that is facing not just his road and his district but literally every district in the state. It is serious. I'm not sure that in this chamber we realize how serious it is. It really has not much to do with this particular bill. In an act that we sometimes refer to as L.D. 1790 that was in a previous legislature, An Act to Secure Maine's Transportation Future, as one of its components it has a sub-piece in it that is referred to colloquially as TransCap. It's Transportation Capital Funding Project. These are big projects. There are capital projects. These are projects that have a life of ten years or greater. A portion of our highway fund revenues that are derived from the fuel tax, 7.5% actually is the amount of the portion that goes to that TransCap fund so that we then can either use those monies or use those monies to leverage additional monies to do capital projects. It might mean that the road that the good Senator refers to is a capital project in that it needs to be built. The roads have deteriorated to such an extent that the surface, the part that we can see and the traveling public can see, deteriorates and the base deteriorates. Then it's not simply a matter of putting new shingles on an old roof, new pavement on an old road, it's a matter of actually rebuilding, reconstructing. That becomes a capital project. We haven't been able to keep up with those. We, indeed, haven't even been able to keep up with the shingling on the old roofs. The Department came to us and wanted to use that money that is put aside for the capital projects to do non-capital projects. It was not the feeling of the committee that we ought to be doing that, as tempting as it might be. In fact, the amended portion coming out of the committee states that grants may be used only for capital projects that have an anticipated useful life of at least ten years. At least ten years. That's a capital project. Paving projects typically have a useful life of six years. We're stretching that to seven and sometimes eight, but that does not meet the satisfaction of the

intent. The bill that is before us now is to maintain the TransCap fund as it was intended to be used. I hope that helps. Thank you.

PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/7/09) Assigned matter:

Bill "An Act To Protect the Integrity of the State's Carbon Dioxide Budget Trading Program and Auction Process and To Provide Allocations to the Energy and Carbon Savings Trust Fund" (EMERGENCY)

S.P. 93 L.D. 276
(C "A" S-42)

Tabled - May 7, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **RECALLED** from Governor's Desk, pursuant to Joint Order (S.P. 550). On motion by Senator **BARTLETT** of Cumberland, **RECONSIDERED ENACTMENT**.)

On motion by Senator **HOBBS** of York, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-42)**.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-42).

On further motion by same Senator, Senate Amendment "A" (S-138) to Committee Amendment "A" (S-42) **READ**.

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

Senator **HOBBS:** Thank you, Madame President. Men and women of the Senate, as you may recall, this bill was sitting on the Governor's desk and it was recalled for the purpose of clarifying two particular items in the bill that was enacted by this Body and by the other Body. This amendment corrects the appropriations and the allocations section by providing the allocation of the money to the trust fund to the Public Utilities Commission rather than the Department of Environmental Protection. Apparently the two departments got switched around in the process at the Revisor's Office and it wasn't caught until it reached the Governor's desk. Also there was a spelling correction that has been verified and corrected in this particular bill, with the spelling of 'electricity'. That's all the amendment does.

On further motion by same Senator, Senate Amendment "A" (S-138) to Committee Amendment "A" (S-42) **ADOPTED**.

Committee Amendment "A" (S-42) as Amended by Senate Amendment "A" (S-138) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-42) AS AMENDED BY SENATE AMENDMENT "A" (S-138) thereto.

Sent down for concurrence.

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Approval of the Public Utilities Commission's Plan for the Use of American Recovery and Reinvestment Act of 2009 Funds

H.P. 1029 L.D. 1478
(S "A" S-141)

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.

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Thursday, May 14, 2009, at 10:00 in the morning.