

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
Thursday
May 14, 2009

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

Prayer by Senator Kevin L. Raye of Washington County.

SENATOR RAYE: Good morning. Let us take a moment to pray together. Heavenly Father, we thank You for the many blessings You have bestowed upon us and continue to shower upon us each and every day. We ask for Your continued blessing as we go about our work. Be with us in this chamber as we deliberate and we fulfill the duties entrusted to us by the people of Maine. Be with us in committees, in negotiating sessions, as we work through our differences and seek consensus. Help us to remember that even in our differences we seek, each in our own way, what we believe to be the best outcome for our state and people we represent. Strengthen us in the face of our weakness. Soften us in the face of our harshness. Calm us in the face of our anxiety. Unsettle us in the face of our complacency. In all of our work, guide us to an outcome of which we can take pride, knowing that we have fulfilled what our constituents expect from us and that we have done it in a way that will cause You to say at the end of our days, 'Well done, thy good and faithful servant.' Amen.

Reading of the Journal of Wednesday, May 13, 2009.

Doctor of the day, Dr. Key Stage, MD, FACS of Camden.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **MARRACHÉ** of Kennebec, under unanimous consent on behalf of Senator **BARTLETT** of Cumberland, the following Joint Order:

S.P. 560

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 18, 2009. The House will convene at 9:00 and the Senate at 10:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

The Following Communication: S.P. 559

STATE OF MAINE
124TH MAINE LEGISLATURE

May 13, 2009

Sen. Seth A. Goodall
Senate Chair, Joint Standing Committee on Natural Resources
Rep. Robert S. Duchesne
House Chair, Joint Standing Committee on Natural Resources
124th Legislature
Augusta, ME 04333

Dear Senator Goodall and Representative Duchesne:

Please be advised that Governor John E. Baldacci has nominated Franklin Woodard of Falmouth for appointment and Elizabeth Ehrenfeld of Falmouth for appointment to the Board of Environmental Protection.

Pursuant to Title 38 M.R.S.A. §341-C, these nominations will require review by the Joint Standing Committee on Natural Resources 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 **NATURAL RESOURCES.**

Sent down for concurrence.

The Following Communication: S.C. 325

STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES

May 8, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Insurance and Financial Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 103 An Act To Ensure Protection from Harassment for Purchasers of Real Property through Auction

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Peter B. Bowman
Senate Chair

S/Rep. Sharon Anglin Treat
House Chair

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

The Following Communication: S.C. 326

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 8, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 583 An Act Relating to Political Action Committees

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Pamela Jabar Trinward
House Chair

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

The Following Communication: S.C. 327

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

May 8, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1448 An Act To Exempt Volunteer Lobbyists from State Disclosure Requirements

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Pamela Jabar Trinward
House Chair

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

The Following Communication: S.C. 328

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 6, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1425 An Act Regarding Payment to Municipal and Quasi-municipal Entities for Emergency Response to Hazardous Materials Incidents

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Deborah L. Simpson
Senate Chair

S/Rep. Stephen R. Beaudette
House Chair

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

The Following Communication: S.C. 329.

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 5, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1212 An Act To Clarify the Role of Public Comment in the Agency Decision-making Process
- L.D. 1232 Resolve, Establishing a Committee To Study the Legislative Confirmation Process

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Deborah L. Simpson
Senate Chair

S/Rep. Stephen R. Beaudette
House Chair

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

The Following Communication: S.C. 330

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

May 8, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1146 An Act To Authorize Municipalities To Impose Service Charges to Tax-exempt Property Owned by Certain Organizations Whose Primary Activities Are Not Charitable
- L.D. 1290 An Act To Amend the Law Authorizing the Application of Service Charges to the Owners of Certain Real Property Exempt from Property Taxation
- L.D. 1314 An Act To Reform and Lower Maine Taxes
- L.D. 1368 An Act To Broaden and Increase the Sales Tax, Increase the Earned Income Tax Credit and Amend the Application Process for the Circuitbreaker Program.
- L.D. 1381 An Act To Allow Counties To Provide Property Tax Relief by Enacting a County Option Meals and Lodging Tax
- L.D. 1426 An Act To Allow Municipalities To Impose a Local Option Lodging or Meals Tax

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Thomas R. Watson
House Chair

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

The Following Communication: H.C. 179

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

May 13, 2009

Honorable Joy J. O'Brien
Secretary of the Senate
124th Maine Legislature
Augusta, Maine 04333

Dear Secretary O'Brien:

The House voted today to adhere to its previous action whereby it accepted the Minority Ought Not to Pass Report of the Committee on Health and Human Services on Bill "An Act To Allow Noninvasive Testing of Infants for the Presence of Drugs without a Parent's Consent" (S.P. 214) (L.D. 599).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

ORDERS

Joint Orders

On motion by Senator **BRANNIGAN** of Cumberland, the following Joint Order:

S.P. 561

ORDERED, the House concurring, that Bill, "An Act To Amend the Retail Tobacco and Liquor Licensing Laws," S.P. 165, L.D. 462, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ and PASSED.

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 **UTILITIES AND ENERGY** on Bill "An Act To Revise the Charter of the Portland Water District"
H.P. 815 L.D. 1176

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 Resolve, To License Wetland Scientists
H.P. 859 L.D. 1240

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-249).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-249).**

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

READ ONCE.

Committee Amendment "A" (H-249) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Provide Additional Time to Certain School Administrative Units To Comply with School Administrative Unit Reorganization Laws" (EMERGENCY)
H.P. 449 L.D. 635

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-256).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-256).**

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

READ ONCE.

Committee Amendment "A" (H-256) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan"

H.P. 484 L.D. 701

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-250).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-250).**

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

READ ONCE.

Committee Amendment "A" (H-250) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Change the Maine HIV Advisory Committee"

H.P. 596 L.D. 865

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-243).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-243).**

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

READ ONCE.

Committee Amendment "A" (H-243) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing the Reporting of Crimes on the Maine Registry of Certified Nursing Assistants"

H.P. 608 L.D. 877

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-259).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-259).**

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

READ ONCE.

Committee Amendment "A" (H-259) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve Children's Safety in Public Swimming Pools"

H.P. 804 L.D. 1165

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-261).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-261).**

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

READ ONCE.

Committee Amendment "A" (H-261) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Concerning Child Abuse and Neglect Councils"

H.P. 882 L.D. 1263

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-260).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-260).**

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

READ ONCE.

Committee Amendment "A" (H-260) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Empower Anglers in Fish Stocking Decisions" H.P. 497 L.D. 714

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-246)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-246)**.

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

READ ONCE.

Committee Amendment "A" (H-246) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act To Enable Municipal Assistance for Purposes of Protecting or Restoring Public Waters"

H.P. 914 L.D. 1311

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-263)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-263)**.

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

READ ONCE.

Committee Amendment "A" (H-263) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Designate July 12th as Wyeth Day" (EMERGENCY) H.P. 979 L.D. 1400

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-251)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-251)**.

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

READ ONCE.

Committee Amendment "A" (H-251) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Amend the Rate of Tax on New Manufactured Housing" H.P. 624 L.D. 906

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-262)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-262)**.

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

READ ONCE.

Committee Amendment "A" (H-262) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act Regarding the Purchase of Fuel for Off-road Use" H.P. 720 L.D. 1045

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-247)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-247)**.

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

READ ONCE.

Committee Amendment "A" (H-247) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Add Combat Action Badges and Ribbons to the Special Commemorative Decals for Veterans License Plates" H.P. 814 L.D. 1175

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-264)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-264).

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

READ ONCE.

Committee Amendment "A" (H-264) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Public Safety Answering Point Efficiency"
H.P. 393 L.D. 555

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-254).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-254).

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

READ ONCE.

Committee Amendment "A" (H-254) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Regarding New Utility Line Extension Construction"
H.P. 670 L.D. 968

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-253).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-253).

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

READ ONCE.

Committee Amendment "A" (H-253) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Require Licensing for Certain Mechanical Trades"
H.P. 860 L.D. 1241

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-248).

Signed:

Senators:
SCHNEIDER of Penobscot
SULLIVAN of York

Representatives:
SMITH of Monmouth
WRIGHT of Berwick
AUSTIN of Gray
MacDONALD of Boothbay
HUNT of Buxton
CLEARY of Houlton
MARTIN of Orono
COHEN of Portland

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

Signed:

Representative:
GILES of Belfast

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-248).

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-248) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve Oral Health Care for Maine's Children"

H.P. 84 L.D. 100

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-255).**

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
McFADDEN of Dennyville

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

Signed:

Senator:

WESTON of Waldo

Representatives:

RICHARDSON of Carmel
JOHNSON of Greenville

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-255).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-255) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Increase Snowmobile Registration Fees"

H.P. 559 L.D. 823

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-245).**

Signed:

Senators:

BRYANT of Oxford
JACKSON of Aroostook

Representatives:

CLARK of Millinocket
EBERLE of South Portland
BRIGGS of Mexico
DAVIS of Sangerville
WHEELER of Kittery
SARTY of Denmark
CRAFTS of Lisbon

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

Signed:

Representative:

SAVIELLO of Wilton

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-245).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-245) **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 Allow Maine Residents To Purchase Health Insurance from Out-of-state Insurers"
H.P. 230 L.D. 290

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

Signed:

Senators:

BOWMAN of York
ALFOND of Cumberland

Representatives:

TREAT of Hallowell
PRIEST of Brunswick
BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
LEGG of Kennebunk
MORRISON of South 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-169)**.

Signed:

Senator:

McCORMICK of Kennebec

Representatives:

RICHARDSON of Warren
WEAVER of York
FOSSEL of Alna

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Clarify the Application of the Public Works Minimum Wage Laws" H.P. 584 L.D. 849

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-241)**.

Signed:

Senators:

JACKSON of Aroostook
GERZOFKY of Cumberland

Representatives:

TUTTLE of Sanford
CLARK of Millinocket
BLODGETT of Augusta
BUTTERFIELD of Bangor
GILBERT of Jay
DRISCOLL of Westbrook

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

Signed:

Senator:

MILLS of Somerset

Representatives:

CUSHING of Hampden
HAMPER of Oxford
BICKFORD of Auburn

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-241)**.

Reports **READ**.

Senator **JACKSON** of Aroostook 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.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Promote Responsible Sales of Alcoholic Beverages"

H.P. 741 L.D. 1074

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

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc
PLOWMAN of Penobscot

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-266)**.

Signed:

Representatives:
TRINWARD of Waterville
RUSSELL of Portland

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.

Senate

Ought to Pass As Amended

Senator SCHNEIDER for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow the Town of Baldwin Eligibility for Full Pine Tree Development Zone Benefits"

S.P. 90 L.D. 267

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-156)**.

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

READ ONCE.

Committee Amendment "A" (S-156) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Rate Energy Efficiency and Carbon Emissions of Buildings"

S.P. 357 L.D. 935

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-155)**.

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

READ ONCE.

Committee Amendment "A" (S-155) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow Youth To Fish for Smelt on Worthley Pond" (EMERGENCY)

S.P. 347 L.D. 925

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

Signed:

Representatives:
EBERLE of South Portland
BRIGGS of Mexico
DAVIS of Sangerville
SHAW of Standish
McLEOD of Lee
SARTY of Denmark
CRAFTS of Lisbon
SAVIELLO of Wilton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-157)**.

Signed:

Senators:
BRYANT of Oxford
JACKSON of Aroostook

Representatives:
CLARK of Millinocket
WHEELER of Kittery

Reports **READ**.

Senator **BRYANT** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AMENDED BY COMMITTEE AMENDMENT "A" (S-157)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AMENDED BY COMMITTEE AMENDMENT "A" (S-157)** Report.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow Smelt Fishing in Metallak Brook, Upper Richardson Lake" (EMERGENCY)

S.P. 348 L.D. 926

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

Signed:

Representatives:

CLARK of Millinocket
BRIGGS of Mexico
EBERLE of South Portland
SHAW of Standish
McLEOD of Lee

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-158)**.

Signed:

Senator:

BRYANT of Oxford

Representatives:

DAVIS of Sangerville
WHEELER of Kittery
SARTY of Denmark

Reports **READ**.

Senator **BRYANT** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AMENDED BY COMMITTEE AMENDMENT "A" (S-158)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AMENDED BY COMMITTEE AMENDMENT "A" (S-158)** Report.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act Regarding Asbestos Abatement Work"
S.P. 518 L.D. 1434

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-159)**.

Signed:

Senators:

GOODALL of Sagadahoc
SIMPSON of Androscoggin

Representatives:

BOLDUC of Auburn
KNAPP of Gorham
MARTIN of Eagle Lake
EBERLE of South Portland
DUCHESNE of Hudson
WALSH INNES of Yarmouth
WELSH of Rockport

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

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford
EDGECOMB of Caribou
AYOTTE of Caswell

Reports **READ**.

Senator **GOODALL** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Smith.

Senator **SMITH:** Thank you, Madame President. Just a couple of words about the divided report and why there is a minority report on this. This is essentially a fee increase bill and it's a very substantial one in terms of percentage of increase for asbestos removers. They have a yearly fee that they have to pay for their licensure for each year. It's relatively low now. It goes up several hundred dollars in the first year, something like \$600 in the second year, and up to \$1,000 in the third year and for each year thereafter. There was no participation by this industry in the public hearing. My sense of it is that they had no idea that this was out there. They have no one representing them around here. I think it just got by them and I think we need to hear from them before we levy such a massive increase in fees as this bill does. I would urge that you oppose the pending motion. Thank you.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Requested)

SECOND READERS

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

House As Amended

Bill "An Act Regarding Political Signs"
H.P. 204 L.D. 258
(C "A" H-133)

Bill "An Act To Allow Law Enforcement Officers To Obtain a Personal Recognizance Bond in Certain Cases"
H.P. 419 L.D. 581
(C "A" H-239)

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
(C "A" H-240)

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

Bill "An Act To Allow Voters To Choose Ongoing Absentee Voter Status"

H.P. 129 L.D. 150
(C "A" H-182)

READ A SECOND TIME.

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

On motion by same Senator, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence. (Roll Call Requested)

Senate

Bill "An Act To Amend the Laws Governing Legislative Ethics"
S.P. 365 L.D. 982

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (5/13/09) Assigned matter:

SENATE REPORT - from the Committee on **JUDICIARY** on Bill "An Act To Consolidate and Modernize Maine's Courts"
S.P. 330 L.D. 882

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-154)**

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

Pending - **ACCEPTANCE OF REPORT** (Roll Call Requested)

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

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

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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.

On motion by Senator **MARRACHÉ** of Kennebec, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1031

JOINT RESOLUTION RECOGNIZING MAY 15TH AS FIBROMYALGIA AWARENESS DAY

WHEREAS, fibromyalgia is a common and complex chronic pain disorder that affects people physically, mentally and socially; and

WHEREAS, fibromyalgia is characterized by chronic widespread pain, multiple tender points, abnormal pain processing, sleep disturbances, fatigue and often psychological distress that can be extremely debilitating and can interfere with basic daily activities and social interaction; and

WHEREAS, fibromyalgia is a very serious and chronic illness and is known as a syndrome, which is a collection of signs, symptoms and medical problems that tend to occur together but are not related to a specific, identifiable cause and for which there is no known cure; and

WHEREAS, this condition affects an estimated 7 to 10 million people in the United States and many more millions of people worldwide and is more likely to affect women, occurring 9 times out of 10 in women; and

WHEREAS, people living with this condition live with difficulty in performing everyday activities, such as climbing stairs, lifting weight and performing other actions involving physical strain, and with widespread pain in muscles, joints and ligaments; and

WHEREAS, people with fibromyalgia face discrimination in the workplace and from family and friends because so few people are aware of or understand what fibromyalgia is and what its symptoms are; and

WHEREAS, diagnosis of fibromyalgia is difficult and takes an average of 5 years because many of the symptoms mimic those of other disorders, resulting in the average person's spending thousands of dollars in medical bills just to receive a diagnosis; and

WHEREAS, public education is important in order for patients to receive proper diagnosis and treatment; public awareness will help to eliminate the myths about fibromyalgia, improve patient support and encourage research; and

WHEREAS, the National Fibromyalgia Association's community awareness campaign involves an annual National Fibromyalgia Awareness Day, and this year's awareness theme is "Fibromyalgia Affects Everyone" to emphasize the far-reaching effects of this disorder, from broken lives to the economic costs to patients and society; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature, now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize May 15, 2009 as Fibromyalgia Awareness Day in the State, and all citizens are encouraged to support those seeking a cure for fibromyalgia and to assist those individuals and families who on a daily basis deal with this devastating disease.

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

READ and **ADOPTED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education (EMERGENCY)
H.P. 69 L.D. 79

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-49)** (12 members)

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

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

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 Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-49)**.)

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

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 York, Senator Nass.

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise today to speak in opposition to the motion before us, Ought to Pass as Amended. We will, hopefully, get a chance to offer a different amendment. This is not a good situation. We have known, collectively, that we need a new model for vocational education. The Education Committee, over the past couple of sessions, has been working to develop a process. A process took place last year that resulted in a competitive opportunity for the school districts in our state. In the end the legislature intervened again. However, I guess I'm the first on my feet, so I get to describe what I think happened first. The unfortunate part now is that we've created the competition and the results of the competition were not, as some folks who participated in the development of it, what they thought was going to happen. The legislature intervenes again. It's probably our own fault, ours collectively. We set up a process. We set up the competition to take place before the rules were finalized and approved. I guess, in the end and hindsight is great, we shouldn't be surprised that we're now in a mess. I am part of the York County delegation that is asking for us to defeat the current motion. We have two competing plans or proposals for vocational education going forward. It's important to all of us. We need a new model for vocational education. The outcome now has come down to a competition between two specific proposals. There is no plan to fund these things yet, so we've having this nose-to-nose, head-to-head, competition with the folks from mid-coast. You are going to hear references to the York County proposal, which is called Great Works, and the Mid-Coast proposal, which

ORDERS OF THE DAY

is called Many Flags. Those are the two competing interests at this point. Whatever we do today, this isn't going to end, unfortunately. We're going to continue to have this discussion, but it's my wish today to vote against the current motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Ladies and gentlemen of the Senate, this bill, as it is amended currently, represents a 12-1 report out of the Education and Cultural Affairs Committee. The purpose of the bill is to clearly define in rule the implementation of L.D. 2175 from the 123rd Legislature. That resolve required the Department of Education to create provisional rules to be applied by year end last year to implement a new model for secondary and postsecondary education. At the time the resolve was passed unanimously by both bodies, I might add, there was no means by which two academic high schools or regional vocational high schools, the University of Maine and the Community College System and any industry directed educational centers of excellence could be combined on one campus. In fact, because of a project I had initiated nearly six years ago called Many Flags One Campus, we have been working with the Department of Education for nearly two years to try to develop an application process recognizing the uniqueness of that or other projects to allow for application for construction funding following this new model. The Department and the State Board of Education, while recognizing the important characteristics of this project, were unable to develop a model method of application for such a project. In the absence of action on the part of the Department, we created a piece of legislation. That legislation was cosponsored by the leaders of both parties in both legislative bodies because of the realization that the need for a new model for the 9-12 education was necessary. The upshot of that legislation was it directed the Department of Education to develop rules and implement an application process to allow the model of academic and vocational secondary education, combined with industry centers of excellence, community college and university collaboration, all in one presence. The goal was seamlessness of passage through the educational system grades 9-16 and beyond. The Department did create provisional rules and applied those rules in an application process last fall. Those applications were received and scored in a process that was later described in a March 18th letter from the Department to all applicants as lacking 'sufficient impartiality', was 'inconsistent or at least confusing and misleading', and some applicants had been offered special 'interpretant guidance.'

Subsequent to the provisional rule making the Joint Standing Committee was asked to permanently approve those rules in L.D. 79, which is before us today. The Committee, when reviewing the rules proposed by the Department of Education in their provisional rule making for their relation to the original legislation, determined that the Department had added provisions that were not in the original bill. Those provisions specifically allowed for higher education to be offered completely virtually. While virtual courses are now part of almost all higher education programs and allowed under the rules that came from the Committee, an all-virtual higher education center did not reflect the intent or the specifications of the bill from last year. Legislative intent is essential when any rule making is forthcoming from a department. That is at the very heart of major substantive rule making

process. It allows for legislative review specifically to avoid activist departments from misinterpreting the will of the legislature. That activism is exactly what happened in the case of implementing the rules we are discussing in L.D. 79. The Committee, in a 12-1 vote, led by those who were on the Committee last year and clearly remember the discussions about this 9-16 education model, worked to align the rules with the legislation that passed last year. That is critically important, not just to this particular case but as a matter of principle for the legislature to be certain that their wishes are appropriately interpreted in rule. While there are those who would refer to this as a changing of the rules in the middle of the game, I would suggest that the rules were inappropriately made up by the Department in a way that was never legislatively intended. In fact, rather than changing the rules, we are clarifying the rules to reflect that legislative intent. We're bringing the rules in line with the law that was unanimously passed and we are then reopening the process to all who meet the criteria to apply and be scored fairly as originally intended. The applicants who had applied earlier are worthy projects and will be able to apply again. Assuring legislative intent is reflected in this legislation should be the outcome of our actions. That ability, to reflect intent by the legislature and not the Department, should certainly be the goal of the legislature in this and all major substantive rule making. I urge your support of this bill, as the Committee has amended it, and I thank you, Madame President.

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

Senator **BOWMAN:** Thank you, Madame President. I just want to complement the previous two colleagues who spoke on either side of this issue. They both spoke rather eloquently. I want everybody to make sure that they understand that no matter who wins this debate, and I'm not talking about people, I'm talking about the sites, this concept is a winner. I was in the 123rd on the Education Committee, as you all know. It was a brutal but wonderful learning experience. When the precursor or predecessor of this bill was brought before our committee we were absolutely astounded by all the wonderful work that had gone into the development of this model by the Many Flags people and the Executive Director was such a passionate, articulate sponsor, mover, of this concept that it was really a pleasure to see that. However, the Education Committee in the 123rd decided to, although the intent of the bill was to award or give the concept to Many Flags, open up the issue to competition because that was what was fair. The competition began and, low and behold, Great Works was declared the winner under the rules that were there. I know there will be those who will stand up and defend it although I don't see the chief proponent present here but I am sure he will give you good reasons and rational. For me, the issue turns on fairness. If you believe in fairness in that the competition was held, was completed, there was a winner, although I want to say that the concept is really the winner, and I hope we can replicate this throughout the state if it proves successful. I think it's a matter of fairness. The issue has been brought up before that rules were changed. That's how I view it. I just want to say both sides are excellent. It is a shame that, in this fiscally constrained world of ours, that we have to chose one over the other. 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'll try to be brief. I just want to go on the element of fairness. The legislature, last session, created this process. It directed the Department of Education to set up this process where there would be a competition. The York County group and the Mid-Coast group both applied for this and it was very close. The York County group came in slightly ahead. Both groups knew what the rules were going in and then after the Mid-Coast group came in second they decided that the rules didn't reflect the original law. I think, from our perspective as the York County group, we engaged in the competition, followed the rules to the best of our ability, spent thousands and thousands of dollars doing that, brought in a lot of groups and many superintendents throughout York County, different school districts, university, the business community, and tried to make this as strong a proposal as possible and then they come back and the legislature changes the rules. That's really the challenge that we face and that's why I would encourage you to vote Ought Not to Pass. 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, I represent the work that was done in the 123rd, so I love timelines. I want to strip a lot of the things away and talk about the process that we are all very familiar with and why it works. The process was that a bill was brought before the Education Committee. It was passed; it was passed unanimously in both the Senate and the House. It did require rule making. The Department of Education did its responsibility and it wrote the rules. There were some questions but everything proceeds in emergency rule making until we are back in session again. The bill that we passed required it to be put in motion. The actual work of having people come and apply for this project was put in motion with the emergency rules that the Department had put together. The next part of the timeline is what always happens, those rules that are conditionally accepted in emergency rule making then come to the committee of jurisdiction. That's what happened this year. Our committee, in a 12-1 report, said to the Department of Education that their rules did not match the legislation. In fact, they actually change the focus and the content of the law. That's our job as legislators. That is the legislative branch. We had a 12-1 report that then realigned and we tweaked the rules to be in alignment with the law that was passed last session. That's what you have before you, what the majority of the Committee believes is an alignment. What happens going forward will be a part of the process that we have got in place now, correctly attaching the law to the rules. That's why this must be passed, go forward, and now the Department can continue the process, knowing in confidence that the legislature, the law we pass now, agrees with the rules that are in place. There will be more transparency and more fairness. 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, obviously there is a difference of opinion

here and a difference of interpretation of what happened and how it happened and when it happened. I guess the one thing I would just suggest is that the Chairman of last year's Education Committee obviously sees it slightly different than some members this year. I understand that when we originally talked about this with some of the Committee they were talking about the intent of the Committee. I think there were only three hold-over members from the previous session. I would just encourage you to look at the process that we've gone through. The legislation directed the Commissioner to set up a competition. The competition was held. It appears to be declared null and void if this passes and I think that is unfair. Having said that, I just want to get one piece of clarification. If I could just present a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. Forgive me if this has already been answered, if this piece of legislation goes through does that completely reopen the applications, with the opportunity not only to reopen the competition but to reopen the competition with new applications?

THE PRESIDENT: The Senator from York, Senator Courtney poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. The answer is yes.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alford to Accept the Majority 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 (#75)

YEAS: Senators: ALFOND, BLISS, BRANNIGAN, BRYANT, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFSKY, GOODALL, GOOLEY, JACKSON, MARRACHE, MCCORMICK, MILLS, NUTTING, PERRY, RECTOR, ROSEN, SCHNEIDER, SIMPSON, SMITH, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BARTLETT, BOWMAN, COURTNEY, HASTINGS, HOBBS, NASS, PLOWMAN, RAYE, SHERMAN, SULLIVAN

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-49) **READ.**

On motion by Senator **NASS** of York, Senate Amendment "B" (S-133) to Committee Amendment "A" (H-49) **READ.**

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, this amendment simply removes what has become the tipping point, I guess, or the bone of contention as we dealt with the various applications, and that is the virtual presence, the need to have actually bricks and mortar as opposed to virtual education. I think, at least I believe, that as we move forward our ability to provide bricks and mortar is going to be somewhat limited, especially on the higher education piece. In fact, the education of the future is going to be a lot more virtual than it is now. We ought to recognize that as we go forward with these new concepts. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, I would urge defeat of this amendment and I would urge it on the basis that the very model that we set forth was to permit a seamless education model that provided students in secondary schools, in our 9-12 schools, an opportunity to have an actual presence for guidance in higher education on the campus that they were attending. While virtual classes can be offered, and will be extremely useful in broadening the array of courses that will be available, it's very important in the model that was presented and in the testimony from the Commissioner at the time that we presented our bill in the last session that an actual physical presence for that higher education be there. That might be in classrooms within a high school building, but it needs to be an actual presence so that guidance and class selections and actually classes can take place on that campus. I would urge defeat of this amendment. Thank you, Madame President.

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

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, I stuck to just the facts last time. Let me give a little more detail. There is a lot of opportunity for creativity in education in K-12 and in higher ed. One of those is virtual classes, on-line classes. What was unique about the bill that came last session was that there was nothing in law that allowed, or permissive to allow, this unique situation which was a bricks and mortar higher ed along side a high school technical school along side a K-12 school. There probably won't be many of these built in our state. They worked on this. They tried to do it under prevailing law and realized that they needed permissive language. The only real reason there was a bill in the last session and the rules we just approved are happening is because of the brick and mortar. I would raise the Oxford Comprehensive School as a great example that did not require any new legislation to have an on site technical school as part of their high school operation. There is just no need for legislation to do that. The only reason that law was necessary was because this group, and any other group who wants to, wanted a brick and mortar higher

ed. If this amendment is passed you can come back here next year and strike the law and strike the rules because they aren't necessary. If you take out 'have a physical presence' you are preventing the very uniqueness that came here as bill request last year. There is no need for this. If another group wants a comprehensive school and they want to bring in other parts of the district, they can do that now. This law that these rules help explain requires brick and mortar. If you don't want brick and mortar higher ed then you do something else. If you do, you need the law that was passed and you need the rules that we just passed not this amendment. I ask you to vote against it and ask for 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.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, this kind of gets back to the whole basis of the competitive process. Usually when one puts forward a school project they go through the process of competing with every other community in the state. This kind of narrows it a little bit more. I think if you look at the original resolve you could almost see why the Commissioner would think that you want to expand it a little bit more and open it up, make it a little more free flowing so more people could compete with this. I'm not sure that the Commissioner stepped that far off from the direction of the legislature, at least not what was written, but maybe what was intended by some people. I think it's already been said what was intended was to create a special law to create a special school and have little competition. I would ask that you accept the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Nass to Adopt Senate Amendment "B" (S-133) to Committee Amendment "A" (H-49). 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 (#76)

YEAS: Senators: BARTLETT, BOWMAN, COURTNEY, DAVIS, HASTINGS, HOBBS, NASS, PLOWMAN, RAYE, SHERMAN, SULLIVAN

NAYS: Senators: ALFOND, BLISS, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, GOOLEY, JACKSON, MARRACHE, MCCORMICK, MILLS, NUTTING, PERRY, RECTOR, ROSEN, SCHNEIDER, SIMPSON, SMITH, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by Senator **NASS** of York to **ADOPT** Senate Amendment "B" (S-133) to Committee Amendment "A" (H-49), **FAILED**.

Committee Amendment "A" (H-49) **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Bill "An Act To Increase Child Support Collection by Expanding the New Hire Reporting Requirements"

S.P. 96 L.D. 300
(C "A" S-117)

Tabled - May 6, 2009, by Senator **RAYE** of Washington

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

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

PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

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

H.P. 68 L.D. 78

In Senate, May 13, 2009, **PASSED TO BE ENGROSSED**, in concurrence.

Comes from the House, Resolve and accompanying papers **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

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

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/13/09) Assigned matter:

An Act To Protect Maine Residents from Home Fires and Carbon Monoxide

S.P. 212 L.D. 550
(C "A" S-98)

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

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-98).**)

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

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 (#77)

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

The Chair laid before the Senate the following Tabled and Later (5/13/09) Assigned matter:

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)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193)**, in concurrence.)

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

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

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

Bill "An Act To Enhance the Safety of Forestry Workers and Contracted Farm Workers"

H.P. 133 L.D. 154
(C "A" H-112)

Tabled - May 6, 2009, by Senator **COURTNEY** of York

Pending - motion by Senator **JACKSON** of Aroostook to **ADOPT** Senate Amendment "A" (S-131)

(In House, April 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-112).**)

(In Senate, May 6, 2009, on motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-131) **READ.**)

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-131) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-112) AND SENATE AMENDMENT "A" (S-131), in NON-CONCURRENCE.

Sent down for concurrence.

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

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

Bill "An Act To Track the Prevalence of Childhood Obesity in Maine"

H.P. 255 L.D. 319
(C "A" H-130)

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

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-130).**)

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

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-130), in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-164) to Committee Amendment "A" (H-130) **READ.**

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

Senator **BRANNIGAN:** Thank you, Madame President. This was a bill that had been worked in our committee unanimously but the Senator from Lincoln, Senator Trahan, had some comments. We felt they were legitimate comments actually, so we have adopted and adapted and we appreciate it.

On further motion by same Senator, Senate Amendment "B" (S-164) to Committee Amendment "A" (H-130) **ADOPTED.**

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

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

Senator **WESTON:** Thank you, Madame President. I do not have a copy of that amendment. If someone could explain it or get me a copy. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Members of the Senate, I will try to explain the amendment. I did have concerns that the information that was being collected in this bill could label students if used in an inappropriate manner. Also I was concerned that insurance companies could access this information. This amendment would put in place a confidentiality protection for the information that is gathered around the student's medical information and that is what the amendment does. I appreciate the good Senator for having amended the bill. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **WESTON:** Thank you, Madame President. The data that will be collected, I am assuming it will be collected in our schools. Will this be collected through the new data collection process Infinite Campus and if so that is done by student name. I understand this is being reported in aggregate only but the

identification, at least if the data is entered into the Infinite Campus, will be identified by name. I would just like clarification.

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

Senator **TRAHAN:** Thank you, Madame President. My understanding of the confidentiality statute is that it doesn't make any difference where this information is housed. The confidentiality protection will apply in any standard. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Not having had the benefit of attending the public hearing and the work session, would someone please tell me what kind of talk the discussion revolved around the body image of young women, the middle schoolers, and the high schoolers who were going to be looking at this information and wondering how they should interpret it among themselves and by themselves?

THE PRESIDENT: The Senator from Penobscot, Senator Plowman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you, Madame President. As I understand it, this is mathematical. I thought maybe they would come along and squeeze and measure. That is what I was thinking of. I was easily and quickly corrected. It is a mathematical calculation that the school nurse or one of the other people will do if there is funding for it. You take the height and weight, which they have anyways now, and you just calculate that and send it on in aggregate. That's the way I understand this being done and it's just to get a handle, if you pardon the expression, on how things are going so that people can try to get obesity under control. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **WESTON:** Thank you, Madame President. First, I understand any confidentiality issue, under our rules, needs to go first through the Judiciary Committee for review. My question is, has that been done?

THE PRESIDENT: The Senator from Waldo, Senator Weston poses a question through the Chair to anyone who may wish to

answer. The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President. This is kind of a long way to answer my seatmate but on the question regarding the Judiciary review of a new exception to the confidentiality rules the answer is no, it has not been done.

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 pending question before the Senate is Adoption of Committee Amendment "A" (H-130) as Amended by Senate Amendment "B" (S-164) thereto. 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 (#78)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFSKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, NUTTING, PERRY, SCHNEIDER, SHERMAN, SIMPSON, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, HASTINGS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SMITH, SULLIVAN, WESTON

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, Committee Amendment "A" (H-130) as Amended by Senate Amendment "B" (S-164) thereto, **ADOPTED, in NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-130) AS AMENDED BY SENATE AMENDMENT "B" (S-164) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Monday, May 18, 2009, at 10:00 in the morning.