

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

First Regular Session
December 3, 2008 to June 12, 2009

Pages 1 - 1159

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

In Senate Chamber
Tuesday
May 19, 2009

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

Prayer by Senator Douglas M. Smith of Piscataquis County.

SENATOR SMITH: Thank you, Madame President. Good morning, my fellow Senate colleagues. We are told in Deuteronomy, chapter 20, verses 1 - 3, 'Now it shall come to pass if you diligently obey the voice of the Lord, your God, to observe carefully all His commandments which I command you today that the Lord, your God, will set you high above all nations of the earth and all these blessings shall come upon you and overtake you because you obey the voice of the Lord, your God.' Let us pray. Heavenly Father, humble our hearts today so that we will hear Your voice. Help us as a nation and a state to obey Your voice in all that we say and do. Continue to bless us, oh Lord, and give us a compassionate and giving heart towards those around us. Hold us to a higher calling, that we will carefully observe Your commandments and be a nation under God, with liberty and justice for all. Amen.

Reading of the Journal of Monday, May 18, 2009.

Doctor of the day, Dr. Allen Hayman, MD of Falmouth.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 353

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 13, 2009

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

Dear Madame President and Madame Speaker:

In accordance with 2 M.R.S.A., Section 104, Subsection 1, the Joint Standing Committee on Health and Human Services has had under consideration the reappointments of Andrew F. Coburn of Portland, Maroulla S. Gleaton of Palermo, Anne P. Graham of No. Yarmouth, Edward F. Miller of Hallowell and the appointment of James P. Highland of Yarmouth to the Advisory Council on Health Systems Development.

After discussion on these appointments, the Committee proceeded to vote on the motion to approve with the following result:

YEAS	Senators	2	Brannigan of Cumberland, Marrache of Kennebec
	Representatives	7	Perry of Calais, Peterson of Rumford, Jones of Mount Vernon, Sanborn of Gorham, Campbell of Newfield, Stuckey of Portland, Eves of North Berwick
NAYS		0	
ABSENT		5	Sen. Mills of Somerset, Rep. Joy of Crystal, Rep. Lewin of Eliot, Rep. Strang Burgess of Cumberland, Rep. Soctomah of Passamaquoddy Tribe

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the reappointments of Andrew F. Coburn of Portland, Maroulla S. Gleaton of Palermo, Anne P. Graham of N. Yarmouth, Edward F. Miller of Hallowell and the appointment of James P. Highland of Yarmouth to the Advisory Council on Health Systems Development be approved.

Signed,

S/Joseph C. Brannigan
Senate Chair

S/Anne C. Perry
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 354

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 13, 2009

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

Dear Madame President and Madame Speaker:

In accordance with 24-A M.R.S.A., §6952, the Joint Standing Committee on Health and Human Services has had under consideration the reappointments of W. Stephen Gefvert of Cumberland Foreside, Janice M. Wnek of Brunswick, Honorable Elizabeth Miller of Somerville, Jeffrey Holmstrom of So. Portland, Rebecca Martins Warren, James Case of Yarmouth and appointments of Susan Jane T. Henderson of So. Portland, J. Elizabeth Mitchell of Portland, Peter C. Shultz of Rome to the Maine Quality Forum Advisory Council.

After discussion on these appointments, the Committee proceeded to vote on the motion to approve with the following result:

YEAS	Senators	2	Brannigan of Cumberland, Marrache of Kennebec
	Representatives	7	Perry of Calais, Peterson of Rumford, Jones of Mount Vernon, Sanborn of Gorham, Campbell of Newfield, Stuckey of Portland, Eves of North Berwick
NAYS		0	
ABSENT		5	Sen. Mills of Somerset, Rep. Joy of Crystal, Rep. Lewin of Eliot, Rep. Strang Burgess of Cumberland, Rep. Soctomah of Passamaquoddy Tribe

Nine members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the reappointments W. Stephen Gefvert of Cumberland Foreside, Janice M. Wnek of Brunswick, Honorable Elizabeth Miller of Somerville, Jeffrey Holmstrom of So. Portland, Rebecca Martins Warren, James Case of Yarmouth and appointments of Susan Jane T. Henderson of So. Portland, J. Elizabeth Mitchell of Portland, Peter C. Shultz of Rome to the Maine Quality Forum Advisory Council be approved.

Signed,

S/Joseph C. Brannigan
Senate Chair

S/Anne C. Perry
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 355

**STATE OF MAINE
124TH MAINE LEGISLATURE**

May 18, 2009

Honorable Elizabeth M. Schneider, Senate Chair
Honorable Nancy E. Smith, House Chair
Joint Standing Committee on Business, Research & Economic Development
100 State House Station
Augusta, Maine 04333

Dear Senator Schneider and Representative Smith:

Pursuant to Joint Rule 309, we have taken LD 1, "An Act To Stimulate Capital Investment for Innovative Businesses in Maine and LD 1389, "An Act To Create State and Regional Quality of Place Investment Strategies for High-Value Jobs, Products and Services in Maine" from your committee. As you know, the deadline for voting on these bills was Friday, May 15th and, as we directed, LD 1 and LD 1389 have been delivered to the Secretary of the Senate without a committee report.

Please see us if you have any questions.

Sincerely

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101: Establishment of the Capital Investment Fund, a Major Substantive Rule of the Governor's Office of Health Policy and Finance (EMERGENCY)

H.P. 777 L.D. 1122

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)
H.P. 987 L.D. 1411

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services (EMERGENCY)
H.P. 988 L.D. 1412

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Directing the Department of Agriculture, Food and Rural Resources To Study Potential Uses of a Potato Plant That Is Toxic to the Colorado Potato Beetle
H.P. 395 L.D. 557

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-275)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-275)**.

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

READ ONCE.

Committee Amendment "A" (H-275) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Requiring Rulemaking by the Maine Quality Forum Regarding Clostridium Difficile and Methicillin-resistant Staphylococcus Aureus
H.P. 662 L.D. 960

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-280)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-280)**.

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

READ ONCE.

Committee Amendment "A" (H-280) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Promote Youth Hunting License Sales"
H.P. 865 L.D. 1246

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-276)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276)**.

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

READ ONCE.

Committee Amendment "A" (H-276) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Resolve, Concerning Fitness Programs for State Employees
H.P. 689 L.D. 1001

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-286).**

Comes from the House with the Report **READ** and **ACCEPTED**
and the Resolve **PASSED TO BE ENGROSSED AS AMENDED
BY COMMITTEE AMENDMENT "A" (H-286).**

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

READ ONCE.

Committee Amendment "A" (H-286) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act Relating to Self-insurance"
H.P. 692 L.D. 1004

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-287).**

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-287).**

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

READ ONCE.

Committee Amendment "A" (H-287) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Clarify and Update the Laws Related to Life
and Health Insurance"
H.P. 821 L.D. 1180

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-288).**

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-288).**

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

READ ONCE.

Committee Amendment "A" (H-288) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Amend the Laws Governing Licensed Financial
Service Providers"
H.P. 930 L.D. 1326

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-284).**

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-284).**

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

READ ONCE.

Committee Amendment "A" (H-284) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Promote Consumer Fairness in Tax Refund
Anticipation Loans"
H.P. 944 L.D. 1343

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-285).**

Comes from the House with the Report **READ** and **ACCEPTED**
and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-285).**

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

READ ONCE.

Committee Amendment "A" (H-285) **READ** and **ADOPTED**, in
concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.**

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Make Technical and Supervisory Amendments
to the Laws Governing Banking and Consumer Credit"
H.P. 985 L.D. 1409

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-289)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289)**.

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

READ ONCE.

Committee Amendment "A" (H-289) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Promote Transparency and Accountability in Campaigns and Governmental Ethics"

H.P. 766 L.D. 1111

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-282)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-282)**.

Report **READ**.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Increase Youth Boating Safety"

H.P. 829 L.D. 1204

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-274)**.

Signed:

Senator:

JACKSON of Aroostook

Representatives:

CLARK of Millinocket
EBERLE of South Portland
BRIGGS of Mexico
SHAW of Standish
DAVIS of Sangerville
WHEELER of Kittery
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 Not To Pass**.

Signed:

Senator:

BRYANT of Oxford

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-274)**.

Reports **READ**.

On motion by Senator **BRYANT** of Oxford, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Protect the Privacy of Consumer Financial Information"

H.P. 534 L.D. 783

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

Signed:

Senators:

BOWMAN of York
ALFOND of Cumberland
McCORMICK of Kennebec

Representatives:

RICHARDSON of Warren
WEAVER of York
BECK of Waterville
FOSSEL of Alna

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-144)**.

Signed:

Representatives:

PRIEST of Brunswick
GOODE of Bangor
TREAT of Hallowell
BEAUDOIN of Biddeford
LEGG of Kennebunk
MORRISON of South Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Require Motorcyclists To Wear Helmets"
H.P. 341 L.D. 453

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

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

MAZUREK of Rockland
PEOPLES of Westbrook
THERIAULT of Madawaska
CAREY of Lewiston
BROWNE of Vassalboro
CEBRA of Naples
ROSEN of Bucksport
THOMAS of Ripley

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-297)**.

Signed:

Representatives:

HOGAN of Old Orchard Beach
HARLOW of Portland

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

Reports **READ**.

On motion by Senator **DAMON** of Hancock, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Senate

Pursuant to Joint Rule 309

From the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Stimulate Capital Investment for Innovative Businesses in Maine"
S.P. 10 L.D. 1

Received by the Secretary of the Senate on May 18, 2009, pursuant to Joint Rule 309.

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

From the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Create State and Regional Quality of Place Investment Strategies for High-value Jobs, Products and Services in Maine"
S.P. 505 L.D. 1389

Received by the Secretary of the Senate on May 18, 2009, pursuant to Joint Rule 309.

On motion by Senator **SCHNEIDER** of Penobscot, **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

Ought to Pass As Amended

Senator BRYANT for the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend Certain Provisions of Fish and Wildlife Laws"
S.P. 319 L.D. 811

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-168)**.

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

READ ONCE.

Committee Amendment "A" (S-168) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator GOODALL for the Committee on **NATURAL RESOURCES** on Bill "An Act To Amend the Laws Governing the Recycling of Televisions"
S.P. 428 L.D. 1156

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-170)**.

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

READ ONCE.

Committee Amendment "A" (S-170) **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 Provide Greater Access to ATVs by Lowering the Minimum Operating Age"

S.P. 104 L.D. 340

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

Signed:

Representatives:

CLARK of Millinocket
EBERLE of South Portland
BRIGGS of Mexico
DAVIS of Sangerville
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.**

Signed:

Senators:

BRYANT of Oxford
JACKSON of Aroostook

Representative:

WHEELER of Kittery

Reports **READ.**

Senator **BRYANT** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#80)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, BRYANT, DIAMOND, GERZOFSKY, GOODALL, JACKSON, SIMPSON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BLISS, BOWMAN, COURTNEY, CRAVEN, DAMON, DAVIS, GOOLEY, HASTINGS, MARRACHE, MCCORMICK, MILLS, NASS, NUTTING, PERRY, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SMITH, SULLIVAN, TRAHAN, WESTON

ABSENT: Senators: HOBBS, PLOWMAN

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BRYANT** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS** Report, **FAILED.**

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

(See action later today.)

SECOND READERS

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

House

Bill "An Act To Add Unlicensed Assistive Persons with Notations to the Maine Registry of Certified Nursing Assistants"
H.P. 993 L.D. 1417

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

House As Amended

Bill "An Act To Allow the Direct Sale of Shellfish to Retailers"
H.P. 335 L.D. 447
(H "A" H-277 to C "A" H-216)

Bill "An Act To Allow Denturists To Practice to the Level of Their Educational Training"
H.P. 493 L.D. 710
(C "A" H-272)

Bill "An Act Regarding Subrogation of Medical Payments Coverage"
H.P. 513 L.D. 754
(C "A" H-168)

Bill "An Act To Enhance Safety at Construction Sites by Regulating Open Trenches"
H.P. 756 L.D. 1094
(C "A" H-269)

Resolve, Creating a Commission To Study the Issue of Homeless Veterans in the State
H.P. 765 L.D. 1110
(C "A" H-265)

Bill "An Act To Regulate the Use of Traffic Surveillance Cameras"
H.P. 854 L.D. 1234
(C "A" H-225)

Bill "An Act To Amend the Laws Governing Games of Chance"
H.P. 947 L.D. 1346
(C "A" H-267)

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

Senate As Amended

Bill "An Act To Amend the Composition of the Maine Commission on Domestic and Sexual Abuse"

S.P. 289 L.D. 742
(C "A" S-166)

Bill "An Act To Protect Artists and Art Galleries"

S.P. 396 L.D. 1062
(C "A" S-160)

Bill "An Act To Prevent Predatory Marketing Practices against Minors Regarding Data Concerning Health Care Issues"

S.P. 431 L.D. 1183
(C "A" S-161)

Bill "An Act To Clarify and Strengthen the State's Motor Vehicle Laws"

S.P. 530 L.D. 1445
(C "A" S-167)

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

Sent down for concurrence.

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

ENACTORS

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

Emergency Measure

An Act To Eliminate the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund
S.P. 80 L.D. 239

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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 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
S.P. 93 L.D. 276
(S "A" S-138 to C "A" S-42)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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 Encourage Clean Fuel Vehicle Economic and Infrastructure Development by Extending the Tax Credit
S.P. 307 L.D. 799
(C "A" S-143)

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

Emergency Measure

An Act To Allow Authorized Agents to Process Moose Hunting Lottery Applications and Antlerless Deer Permit Applications
H.P. 560 L.D. 824
(C "A" H-235)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 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 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)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Relating to the TransCap Trust Fund
 H.P. 654 L.D. 951
 (C "A" H-123)

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

Emergency Resolve

Resolve, Directing the ConnectME Authority To Create the Broadband Strategy Council
 H.P. 700 L.D. 1012
 (C "A" H-229)

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

Emergency Resolve

Resolve, 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)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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 Simplify and Consolidate Maine's Fishing Laws and Rules
 S.P. 34 L.D. 85
 (C "A" S-128)

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

An Act To Allow Smelting on Mud Brook on Long Lake in Aroostook County
 S.P. 108 L.D. 344
 (C "A" S-129)

An Act To Establish the Civil Violation of Motor Vehicle Violation Resulting in Death
 H.P. 329 L.D. 441
 (H "A" H-185 to C "A" H-78)

An Act To Recognize Maine Youth Camps
 S.P. 182 L.D. 479
 (C "A" S-148)

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)

An Act To Exempt Snowmobiles and All-terrain Vehicles Operated at Demonstration Events from the Requirement of a Maine Registration
 H.P. 452 L.D. 638
 (C "A" H-234)

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)

An Act Regarding Claims for Civil Perjury
 H.P. 486 L.D. 703

An Act To Ensure Adequate Insurance Coverage for Family Child Care Providers
 H.P. 614 L.D. 896
 (C "A" H-214)

An Act To Require the Disclosure of Insurance Policy Limits to an Injured Party
 S.P. 362 L.D. 979
 (C "A" S-95)

An Act To Allow Lobster License Exemptions to Persons with Certain Medical Criteria
 H.P. 697 L.D. 1009
 (C "A" H-217)

An Act To Amend the Laws Governing Campaign Finance Reports and the Maine Clean Election Act
 S.P. 380 L.D. 1016
 (C "A" S-136)

An Act To Facilitate the Marketing of Power Produced by Small Generators
 H.P. 769 L.D. 1114
 (C "A" H-226)

An Act To Amend the Laws Governing Outdoor Wood Boilers
 H.P. 810 L.D. 1171
 (C "A" H-228)

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

An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles
S.P. 135 L.D. 393
(C "A" S-132)

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

An Act To Amend the Tax Exemption Regarding Leased Property
S.P. 205 L.D. 545
(C "A" S-142)

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

An Act To Capitalize the Municipal Investment Trust Fund with Municipal Revenue-sharing Resources
S.P. 316 L.D. 808
(C "A" S-144)

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

An Act To Expand the Moose Hunting Season
S.P. 351 L.D. 929
(C "A" S-140)

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

An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities
S.P. 481 L.D. 1335
(C "A" S-150)

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

Resolves

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Develop Best Management Practices for Poultry Production

S.P. 267 L.D. 692
(C "A" S-127)

Resolve, To Create a Working Group To Provide Transparency Concerning Operating Expenses for Hospitals

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

Resolve, To Require a Study of Economic Development Incentives in the Unorganized Territory

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

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 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 (4/15/09) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Pertaining to the Possession of Animal Fighting Paraphernalia"
H.P. 151 L.D. 186

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-44)** (3 members)

Tabled - April 15, 2009, by Senator **BARTLETT** of Cumberland

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

(In House, April 8, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 9, 2009, Reports **READ**.)

Senator **GERZOFSKY** of Cumberland requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by Senator **WESTON** of Waldo, 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 Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I just want to clarify what is happened. An amendment will be offered once we get through this motion and adopt the Committee Amendment. We have to get past this stage before that amendment can be offered.

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

Senator **DAVIS:** Thank you, Madame President. I would like an explanation of what we're doing here. I'm very much interested in the amendment. Being a freshman Senator, I'd like to have an explanation.

THE PRESIDENT: We can't debate an amendment that is not before us. I would advise, if you want to see the amendment, you can give the opportunity for it to be presented and then if you don't like it you can vote against it.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

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

Off Record Remarks

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

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Pertaining to the Possession of Animal Fighting Paraphernalia"
H.P. 151 L.D. 186

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-44)** (3 members)

Tabled - May 19, 2009, by Senator **RAYE** of Washington

Pending - motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, April 8, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 9, 2009, Reports **READ**.)

(In Senate, May 19, 2009, Senator **GERZOFSKY** of Cumberland requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.)

Senator **WESTON** of Waldo, under unanimous consent, requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **NUTTING** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-44) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **SIMPSON** of Androscoggin, Senate Amendment "B" (S-137) **READ** and **ADOPTED**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-44) and **INDEFINITELY POSTPONED** same.

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 Androscoggin, Senator Simpson.

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I've been requested to explain the amendment. The original bill was to create a Class C crime. This will not do that and all the paraphernalia has been removed. It will make it only a Class D crime of a fighting pit. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended by Senate Amendment "B" (S-137). 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 (#81)

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

NAYS: Senators: BLISS, BRANNIGAN, BRYANT, DAMON, GERZOFKY, JACKSON

ABSENT: Senator: PLOWMAN

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-137), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act Pertaining to the Retirement of Certain Oil and Hazardous Material Specialists"

H.P. 695 L.D. 1007

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-184)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 7, 2009, by Senator **COURTNEY** of York

Pending - motion by Senator **JACKSON** of Aroostook to **RECEDE** and **CONCUR**

(In House, April 30, 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-184).**)

(In Senate, May 5, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

(In House, May 6, 2009, that Body **ADHERED.**)

On motion by Senator **MILLS** of Somerset, 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 Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, as you may recall, this is the bill that does not have a \$7.3 million fiscal note. It has, however, a \$42,000 fiscal note every year because it would provide an age 55 retirement for certain people who work for the DEP. They have at present either an age 60 or age 62 retirement, depending on when they were hired. It just seems to me, as we argued several weeks ago on this bill when we last saw it, that expanding pension benefits in this environment is not a very good idea. I would ask that you reject the pending motion so that we might, as a Senate, come back to our original position of Ought Not to Pass. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, as you heard, it is a significantly lower fiscal note than was talked in the earlier debate. I don't see it as much as expanding the retirement issue. I think it's creating fairness in the department of DEP. Thirteen people have better retirement than the other thirteen and the jobs being interchangeable. I do understand that \$42,000 in this environment is somewhat hard to swallow but I just see it as something that is fair and should have been done. I don't understand the rationale of why it was split like that in the first place. I would go with Recede and Concur.

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

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I did get up a couple of weeks ago on this particular issue. Foresters, and I know a lot about what foresters do for the state of Maine, have never been included in this sort of

hazardous duty type of thing but I bet a case could be made for such a happening, that it could be included. I see this bill as more of the slippery slope. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Jackson to Recede and Concur. 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 (#82)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRYANT, GERZOFKY, GOODALL, HOBBS, JACKSON, PERRY, SIMPSON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BOWMAN, BRANNIGAN, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GOOLEY, HASTINGS, MARRACHE, MCCORMICK, MILLS, NASS, NUTTING, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SMITH, SULLIVAN, TRAHAN, WESTON

ABSENT: Senator: PLOWMAN

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **JACKSON** of Aroostook to **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **MILLS** of Somerset, the Senate **ADHERED**.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Terms for State Senators and Members of the House of Representatives to 4 Years

H.P. 92 L.D. 108

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-139)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 7, 2009, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 6, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

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

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 (#83)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, MARRACHE, ROSEN, SHERMAN, SIMPSON, SULLIVAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BOWMAN, DAMON, JACKSON, MCCORMICK, MILLS, NASS, NUTTING, PERRY, RAYE, RECTOR, SCHNEIDER, SMITH, TRAHAN

ABSENT: Senator: PLOWMAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Legislative Term Limit Laws"

H.P. 26 L.D. 31

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-136)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Tabled - May 7, 2009, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 6, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

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

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

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 Androscoggin, Senator Simpson.

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I just wanted to make sure everyone understood that this bill is to change the term limit laws, assuming that there would be a Constitutional Amendment so that if you had four year terms then it mirror the same term limits that we have now, otherwise, if it were to pass, you would have two two-year terms.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Simpson 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 (#84)

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

NAYS: Senators: None

ABSENT: Senator: PLOWMAN

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

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

Resolve, To Encourage Access to Higher Education for Certain Child Care Providers

H.P. 736 L.D. 1069
(C "A" H-221)

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

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

(In House, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-221)**.)

(In Senate, May 12, 2009, **READ A SECOND TIME**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-221), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-169) to Committee Amendment "A" (H-221) **READ** and **ADOPTED**.

Committee Amendment "A" (H-221) as Amended by Senate Amendment "A" (S-169) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-221) AS AMENDED BY SENATE AMENDMENT "A" (S-169) thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from 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

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-258)** (4 members)

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

Pending - motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

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

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

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

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

Senator **BRANNIGAN**: Thank you, Madame President. Men and women of the Senate, this bill, if we were to debate it on the wording of the bill itself, would allow us, require us, to pile on, or add, co-pays for people who are very poor and other penalties and other premiums. However, we don't need to talk about that level. The Deficit Reduction Act has said that you can't change the requirements for Medicaid, MaineCare, while you are using their money. They did some very wise things about making sure that we use their money for the things they wanted. We would be very heavily penalized if we were to pass this because we would be changing eligibility that we did not have in July 2008. Thank you very much.

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

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, I agree that the ARRA Act does impose restraints on changing eligibility. It's my memory that the law does permit us to change the terms of benefits and specifically would allow us to charge a co-pay, which is what this amendment suggests. We have a category of people called the CHIP expansion parents, who are young adults with children who make between 150% and 200% of poverty, which for a family of four is between \$31,000 and \$42,000 a year. At present, these parents pay no premium, no mandatory co-pay for Medicaid. They do pay a premium for their children. It's a small premium that was imposed at the time when we adopted our S-CHIP program back in the late 1900's. It's a small premium, very affordable, and they don't pay a premium or anything for their own coverage. It is a very awkward situation where if you make \$42,000 or \$43,000 and you have a family of four and your boss offers you a \$1,000 raise, boom, you lose all of your Medicaid for yourself and your children, your family. We have this horrible cliff. More pertinent to this bill itself, we, as a state, are not asking this population to contribute very much to their own care. It's a population that can at least afford to contribute something. I think that asking them to pay \$3 for a prescription drug or \$10 for an office visit to the doctor isn't asking a lot for people who make between \$31,000 and \$42,000 a year. It is for that reason that we endorsed this report, several of us did, out of the Committee and I would ask that you would vote no on the pending motion. Thank you.

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

Senator **BRANNIGAN**: Thank you, Madame President. Men and women of the Senate, as I said, we could debate this on several levels. One of the requirements of this bill is that these penalties or these co-pays would be mandatory. Once they are mandatory the providers can say no. Right now we require co-pays but the providers, the druggist or the emergency room, could say no. You can't pay the co-pay, sorry, no medicine, no service. We think this is very harsh, along with the fact that we don't think this is the time to be putting on more co-pays because they would be much broader, I think, than the Senator has suggested. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Marrassé.

Senator **MARRACHÉ**: Thank you, Madame President. Men and women of the Senate, I'm rising because this is an issue that you read constantly about in the AMA Journals that come out weekly. What you are finding is in states that do have this a lot of providers are actually losing the money because you are not going to turn people away who come to you with a real problem. You are going to see them and if you don't get the money from them they are the people hardest to collect from. The person who loses the money is the provider providing the service. That is an unfortunate situation for those who are trying to make ends meet to keep their practice running. In a state where the reimbursement levels are at the lowest level, it will just impact the providers more than we are. I'm not going to be supporting the Minority Report.

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. I look at this fairly simply, the studies have shown that when you have co-pays for even preventive care, when you are talking about folks in these very low income levels, that dissuades them from getting the preventive care they need. When they do not get that preventive care their cost of health care rises and we pay more. Purely, the cost of the program of running MaineCare and having the additional co-pays you are simply making it more costly when they don't get those services. It is also important to note that the State already imposes a number of co-pays, significantly more co-pays than most of our neighbors and, in fact, we're well above the national average for the services that require co-pays under MaineCare.

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

Senator **DIAMOND**: Thank you, Madame President. Men and women of the Senate, I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND**: Thank you, Madame President. There seems to be compelling arguments on both sides of this issue, but there seems to be disagreement on one basic issue and that is: will this be a violation of the Recovery Act? If it will it puts in jeopardy everything that we've now built our budget on. Could we get an answer to that either today or sometime later, will it in fact this be a violation of the Recovery Act?

THE PRESIDENT: The Senator from Cumberland, Senator Diamond 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. I will quote from the information given to the Committee at the time, the ARRA prohibition on raising eligibility standards, methodologies, and procedures is interpreted by federal CMS, the Medicaid people, and Covington and Burling. However, the Federal Deficit Reduction Act, amended title 19 of the Social Security Act, grants straight increases and so forth. It prohibits states from raising

eligibility standards, methodologies, and procedures above their level in effect in July 1, 2008. Thank you.

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

Senator **RAYE:** Thank you, Madame President. I just want to point out to the Senate that if, in deed, there is a prohibition that prohibition goes away when the stimulus funds go away. For the upcoming biennium such a change could be implemented, effective January 1st of the second year of the biennium.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I certainly don't know very much about Health and Human Services issues but I do know a little about struggling families and I don't think these people are living high on the hog. \$42,000, I don't know what people think that is nowadays, but if we know that it actually doesn't save an awful lot of money, and I think it was mentioned that it isn't very much, but we're not sure that it actually could put the state out of conformity and cause penalties. I don't really know why we're going to bother to do it. I move that people stay with the Majority Ought Not to Pass Report.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, the federal law says we can't reduce eligibility but this bill does not do that, it simply says that the same population is eligible but that this population must now pay a co-pay mandatorily as opposed to optionally. I don't believe it changes eligibility. In any case, our analysis has written this amendment very cleverly to avoid the problem by inserting these words at the beginning of the section that imposes the co-pays, 'Except as prohibited or limited by federal law' and imposes the co-pay beginning July 1, 2010. If I am wrong in my interpretation of the ARRA then we won't be violating that statute. We will simply have to defer, making the co-pays mandatory until January 1, 2011. I think it's a safe bill to support, if you are inclined to, without jeopardizing our status with the federal government. It does save a few hundred thousand dollars in costs per annum. I respect people's concern about the people who live at this level of income. They are some of my own constituents. I know it's regarded as low income in Gorham. It's close to middle income in Cornville. I respect that they had difficulty in paying their bills. On the other hand, the State is having great difficulty paying its bills and I don't think it's asking a lot to impose a co-pay for a doctor visit. The bill, as finely worded, says only a \$10 co-pay for a visit. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brannigan 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 (#85)

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

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

ABSENT: Senator: PLOWMAN

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (5/13/09) 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 - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, May 13, 2009, Reports **READ**. The motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.)

At the request of Senator **BARTLETT** of Cumberland a Division was had. 13 Senators having voted in the affirmative and 21 Senators having voted in the negative, **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

Senator **JACKSON** of Aroostook moved the Senate **RECONSIDER** whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report on the following:

Bill "An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age"

S.P. 104 L.D. 340

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED**.

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Wednesday, May 20, 2009, at 10:00 in the morning.