

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
Thursday
May 21, 2009

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

Prayer by Pastor Curt Lovelace, Covenant Baptist Church.

PASTOR LOVELACE: Good morning. Those of you who read the Bible may be familiar with the text found in the Epistle to the Romans, chapter 13, verse 1. It reads as follows: 'Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God.' What this says to me is that those of you who are legislators have been ordained by God to your task. You are here doing God's work by His authority. I know you already take your duties seriously, but this adds yet another dimension to both your authority and your responsibility. On the other side of the coin is the statement of the Apostles Peter and John. When told by authorities of their day that they should not preach or teach in the name of Jesus they replied, as recorded in the book of Acts, chapter 4, verse 19, 'Judge for yourselves whether it is right in God's sight to obey you rather than God.' When Christian citizens are confronted with laws which are contrary to God's word they can be expected to respond as did Peter and John. We pray for you. My congregation and many other congregations around this state pray for you regularly. We recognize that your responsibilities are great and that it is a very trying time for you as well as for the rest of the nation and, indeed, the world. It's with these things in mind that I say to you this morning let us pray.

Almighty God, we give thanks for Your great providence in the establishing of this nation in which we still enjoy freedom of assembly and freedom of worship. We pray that we may continue in these great blessings. We pray for this august body assembled here to do the business of the state of Maine. If there be those in our midst who are of ill health, we pray for their healing. If there be some who are sick of heart or spirit, we pray that You grant them peace. We ask that You grant forgiveness for our sins, for any lack of compassion for the sick and defenseless, for complacency in the face of need, for the waste of resources which You have bestowed upon us. We ask that these legislators be of clear mind and open minds, that they act fairly, that they protect those who need protection, and that they use wisely the wealth of the citizens of this state. God, we thank You for the opportunity that each of us has to serve, each in his or her own way, and we ask Your blessing upon this legislature this day. I pray in the name of my Lord and Savior. Amen.

Reading of the Journal of Wednesday, May 20, 2009.

Doctor of the day, Dr. Louis Hanson, DO of Cumberland.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **BARTLETT** of Cumberland, the following Joint Order:
S.P. 563

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, May 26, 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.

COMMUNICATIONS

The Following Communication: S.C. 357

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 19, 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 Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 523 Resolve, Directing the Department of Health and Human Services and the Department of Education To Enter into a Memorandum of Understanding Regarding Early Childhood Intervention
- L.D. 725 An Act To Protect Student Privacy while Complying with Federal Law
- L.D. 1106 Resolve, To Establish a Schoolchildren's Well-being Stakeholder Group
- L.D. 1295 An Act To Establish the Middle School of Science and Mathematics

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

Sincerely,

S/Sen. Justin L. Alfond
Senate Chair

S/Rep. Patricia B. Sutherland
House Chair

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

The Following Communication: S.C. 358

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 19, 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 Education and Cultural Affairs has voted unanimously to report the following Joint Study Orders out "Ought Not to Pass":

- H.P. 701 Joint Study Order To Establish a Working Group To Identify Unfunded Educational Mandates
- H.P. 820 Joint Study Order To Study Providing Child Care for Students of the University of Maine System and the Maine Community College System
- H.P. 842 Joint Study Order To Study the Administrative Burden within School Districts as a Result of School Administrative Consolidation

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

Sincerely,

S/Sen. Justin L. Alfond
Senate Chair

S/Rep. Patricia B. Sutherland
House Chair

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

The Following Communication: S.C. 359

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 18, 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 Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 139 An Act To Require a Guide License for Certain Outdoor Activities
- L.D. 626 An Act To Increase Participation in Funding the Activities of the Department of Inland Fisheries and Wildlife

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

Sincerely,

S/Sen. Bruce S. Bryant
Senate Chair

S/Rep. Herbert E. Clark
House Chair

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

The Following Communication: S.C. 360

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

May 18, 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. 1003 Resolve, Directing the Office of Program Evaluation and Government Accountability To Perform a Performance Evaluation and Cost-benefit Analysis of the Dirigo Health Program

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. 361

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

May 18, 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 Labor has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 658 An Act To Require United States Occupational Safety and Health Administration Training for Government Construction Contracts

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

Sincerely,

S/Sen. Troy D. Jackson
Senate Chair

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

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

The Following Communication: S.C. 362

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

May 19, 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. 109 An Act To Exempt Residential Electricity from Sales Tax
- L.D. 670 An Act To Make Health Insurance More Affordable
- L.D. 671 An Act To Exempt Clean Fuel Vehicles from Sales Tax
- L.D. 787 An Act To Provide an Additional Source of Revenue for the Tax Relief Fund for Maine Residents
- L.D. 1060 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict Property Revaluations
- L.D. 1173 An Act To Exempt Sales of Heating Oil and Kerosene to Maine Businesses from Sales 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: S.C. 363

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

May 18, 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 Utilities and Energy has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1450 An Act To Establish the Renewable Energy Resources Program

L.D. 1467 An Act Relating to the Carrabassett Valley Sanitary District

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

Sincerely,

S/Sen. Barry J. Hobbins
Senate Chair

S/Rep. Jon Hinck
House Chair

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

ORDERS

Joint Order

An Expression of Legislative Sentiment recognizing:

Diane Higgins, of Verona Island, founder and director of the World of Twirl, a baton twirling program offered by the Augusta Recreation Department and Bucksport Adult and Community Education, and the Main-E-Acts Baton Twirling Team, the travel component of the World of Twirl created in 2004. The Main-E-Acts Baton Twirling Team was selected to perform in the 2009 National Cherry Blossom Festival Parade on April 4, 2009, in Washington, DC, where over 100,000 people traditionally attend the parade and over one million people admire the blossoming cherry trees and participate in the festival. Team members are selected for their outstanding twirling, dancing abilities, enthusiasm, dedication and passion for the sport of baton twirling. The following 14 young women are coached by Ms. Higgins and Andrea Fletcher and form one of the top twirling teams in the State of Maine, the New England region and the nation: Alicia Tilsley, Jenna Cross, Meleah Roy, Matteah Hamm, Whitney Seymour, Carley Scanlon, Jenna Somers, Shauna Hatch, Megan Williams, Morgan Sorey, Sarah Clark, Taylor Hickey, Kayla Cater and Molly King. The members of the Main-E-Acts Baton Twirling Team are the Maine Games Dance Twirl Team Champions (2005, 2006, 2007, 2008), the NBTA Northeast Regional Dance Twirl Team Champions (2006, 2007, 2008), Disney's Twirl Mania Dance Twirl Team Champions (2005, 2006) and Walt Disney World's Junior Parade Team Champions (2006). We congratulate Diane Higgins and the Main-E-Acts Baton Twirling Team for their achievements in representing Maine in this international event, and we send them our best wishes;

SLS 184

Sponsored by Senator PLOWMAN of Penobscot.
Cosponsored by Senators: President MITCHELL of Kennebec, ROSEN of Hancock, Representatives: BLODGETT of Augusta, BROWNE of Vassalboro, CROCKETT of Augusta, MAGNAN of Stockton Springs, ROSEN of Bucksport.

READ.

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

Senator **PLOWMAN:** Thank you, Madame President. Good morning, men and women of the Senate. This morning we are literally watching the passing of the baton from Miss Diane Higgins. I can never call her anything but Miss Diane. She was my little girl's twirling coach back when she was about four. I have watched some of these young ladies, who are members of the Main-E-Acts, grow up from infants to accomplished, poised young ladies by participating in the sport of twirling. Yes, I said sport. I'll tell you Miss Diane Higgins believes that this is a sport and so do I. These young ladies work hours and hours. If the Patriots had a guy who could have as many successful catches as these girls do, they'd be paying him a lot of money and making sure they didn't trade him. What they do has to be exactly refined to perfection so that they can actually be invited to places like Disney and to the National Cherry Blossom Festival to perform in the parade. That's how good these young ladies are. The baton is being passed after I'm not sure how many years. 31 years. Thank you. The girls have an able new coach coming aboard, but Miss Diane has a special place in our hearts and in the hearts of the families and the young ladies that you see before who are disciplined, and if you speak with them, you will find that the poise level that they have is incredible. They perform in front of

thousands and thousands of people when they do what they do, and they do it well. I'm so glad that they asked me to put this in. It is co-sponsored by the President of the Senate, who has several young ladies here from Kennebec County, and Senator Rosen, who has several young ladies here from Hancock County. You see their names, I think we opted not to read them all, but I am so thrilled to see you all here. Thank you. You do a great job representing us at the national and state levels and we appreciate it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. Men and women of the Senate, I just want to join with my good colleague, the Senator from Penobscot, to also congratulate Miss Higgins and crew for all of your wonderful accomplishments, and the ability for all you've learned in terms of individual accomplishments and what you've learned collectively as a team. You've made us all very proud. I'm glad you're here.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair would request that Miss Higgins and her champion twirlers please stand and accept the congratulations of the Maine Senate.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Streamline Health Care Services in Maine by Allowing Certified Nurse Practitioners and Certified Nurse Midwives To Verify Medical Papers and Records"
H.P. 478 L.D. 695

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Restore Game Sanctuary Status for Certain Lands in the Town of Orrington"

H.P. 961 L.D. 1371

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Maine Uniform Building and Energy Code"

H.P. 466 L.D. 652

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-301).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-301).**

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

READ ONCE.

Committee Amendment "A" (H-301) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Simplify Maine's Accountancy Laws"

H.P. 962 L.D. 1372

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-307).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307).**

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

READ ONCE.

Committee Amendment "A" (H-307) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Require Due Process and To Establish Expiration Dates for Criminal Trespass and Harassment Notices"

H.P. 528 L.D. 777

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-315)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-315)**.

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

READ ONCE.

Committee Amendment "A" (H-315) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Fully Implement the Legislative Intent in Prohibiting Offensive Place Names"

H.P. 546 L.D. 797

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-312)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-312)**.

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

READ ONCE.

Committee Amendment "A" (H-312) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Amend the Laws To Ensure Equity in the Judicial Retirement Program"

H.P. 650 L.D. 947

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-313)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-313)**.

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

READ ONCE.

Committee Amendment "A" (H-313) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee"

H.P. 823 L.D. 1199

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-314)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-314)**.

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

READ ONCE.

Committee Amendment "A" (H-314) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Election Laws"

H.P. 808 L.D. 1169

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-311)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-311)**.

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

READ ONCE.

Committee Amendment "A" (H-311) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Pertaining to Volunteer Lobbyists for Nonprofit Organizations"

H.P. 835 L.D. 1210

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-310)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-310)**.

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

READ ONCE.

Committee Amendment "A" (H-310) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Resolve, To Authorize Efficiency Maine To Conduct a Pilot Conservation Program

H.P. 626 L.D. 908

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-308)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-308)**.

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

READ ONCE.

Committee Amendment "A" (H-308) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Cogeneration of Energy at Maine Sawmills"

H.P. 719 L.D. 1044

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-302)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-302)**.

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

READ ONCE.

Committee Amendment "A" (H-302) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create the Hancock Pond Water District" (EMERGENCY)

H.P. 921 L.D. 1318

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-303)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-303)**.

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

READ ONCE.

Committee Amendment "A" (H-303) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Permit the Use of a Common Flue for Oil and Solid Fuel Burning Equipment"

H.P. 46 L.D. 53

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-173)**.

Signed:

Senators:

NUTTING of Androscoggin
DAVIS of Cumberland

Representatives:

HANLEY of Gardiner
GREELEY of Levant
SCHATZ of Blue Hill
PLUMMER of Windham
BURNS of Whiting
WHEELER of Kittery
SYKES of Harrison

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-174)**.

Signed:
Senator:
GERZOFISKY of Cumberland
Representatives:
HASKELL of Portland
LAJOIE of Lewiston
MAGNAN of Stockton Springs

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173) AS AMENDED BY HOUSE AMENDMENT "A" (H-317)** thereto.

Reports **READ**.

On motion by Senator **GERZOFISKY** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-173)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-173) **READ**.

House Amendment "A" (H-317) to Committee Amendment "A" (H-173) **READ** and **ADOPTED**, in concurrence

Committee Amendment "A" (H-173) as Amended by House Amendment "A" (H-317) thereto, **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 Require Health Insurers To Provide Coverage for Nutritional Wellness and Prevention Measures and Products"

H.P. 533 L.D. 782

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

Signed:
Senators:
BOWMAN of York
ALFOND of Cumberland
McCORMICK of Kennebec

Representatives:
TREAT of Hallowell
PRIEST of Brunswick
BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
RICHARDSON of Warren

WEAVER of York
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-283)**.

Signed:
Representatives:
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 **JUDICIARY** on Bill "An Act To Protect Family Caregivers"

H.P. 664 L.D. 962

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-295)**.

Signed:
Senators:
BLISS of Cumberland
HOBBINS of York

Representatives:
PRIEST of Brunswick
BRYANT of Windham
DILL of Cape Elizabeth
HILL of York
KRUGER of Thomaston
STEVENS of Bangor
CROCKETT of Bethel

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

Signed:
Senator:
HASTINGS of Oxford

Representatives:
CLEARY of Houlton
NASS of Acton
BEAULIEU of Auburn

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended** Report.)

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-295)**.

Reports **READ**.

Senator **BLISS** of Cumberland 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 **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Modify the Informed Growth Act"

H.P. 336 L.D. 448

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-232)**.

Signed:

Senators:

SIMPSON of Androscoggin
JACKSON of Aroostook
COURTNEY of York

Representatives:

BROWNE of Vassalboro
WILLETTE of Presque Isle
HAYES of Buckfield
BEAUDETTE of Biddeford
COTTA of China
CLARK of Easton
HARVELL of Farmington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-233)**.

Signed:

Representatives:

BOLAND of Sanford
KAENRATH of South Portland
SCHATZ of Blue Hill

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)**.

Reports **READ**.

On motion by Senator **SIMPSON** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-232)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-232) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Enhance Municipal Home Rule Statutes"

H.P. 703 L.D. 1028

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

Signed:

Senators:

SIMPSON of Androscoggin
JACKSON of Aroostook
COURTNEY of York

Representatives:

BROWNE of Vassalboro
WILLETTE of Presque Isle
HAYES of Buckfield
BEAUDETTE of Biddeford
COTTA of China
CLARK of Easton
HARVELL of Farmington
KAENRATH 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-298)**.

Signed:

Representatives:

BOLAND of Sanford
SCHATZ of Blue Hill

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator JACKSON for the Committee on **LABOR** on Bill "An Act To Clarify the Status and Benefits of Employees of the Child Development Services System"

S.P. 268 L.D. 693

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-189)**.

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

READ ONCE.

Committee Amendment "A" (S-189) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator JACKSON for the Committee on **LABOR** on Bill "An Act To Require the State To Provide Bonita Rogan with Health Insurance Benefits"

S.P. 284 L.D. 737

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-190)**.

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

READ ONCE.

Committee Amendment "A" (S-190) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator PERRY for the Committee on **TAXATION** on Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Topsham (EMERGENCY)

S.P. 509 L.D. 1390

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-188)**.

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

READ ONCE.

Committee Amendment "A" (S-188) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Create a Scholarship Granting Organization Tax Credit"
S.P. 465 L.D. 1284

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

Signed:

Senators:

PERRY of Penobscot
BLISS of Cumberland

Representatives:

WATSON of Bath
BRYANT of Windham
FLEMINGS of Bar Harbor
CROCKETT of Augusta
SIROIS of Turner

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-187)**.

Signed:

Senator:

NASS of York

Representatives:

LANGLEY of Ellsworth
PILON of Saco
CHASE of Wells
VALENTINO of Saco
KNIGHT of Livermore Falls

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT 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 PRESIDENT: The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President. Men and women of the Senate, I just want to speak briefly about this. This proposal has a large fiscal note on it, which we did not argue about or contest at all, so it's not likely to be funded. It's an interesting concept that we need to begin to pay attention to, so that's the purpose of at least my comments today. Some of us feel that as we look out a few years, as far as cost of education goes, we are in an unsustainable situation and we ought to begin

to at least have a conversation about that. Where the money is going to come from to fix our pension and so-called op-ed benefits, in addition to providing reasonable education for our secondary and primary students, is difficult to see how that's going to happen. This is a concept that several other states have developed. It's a theme we've talked about before with a little bit of a different twist. We ought to recognize, some people think, where folks who have the wherewithal are willing to spend money on education. We ought to provide some incentive for them to do that and that essentially is the tax credit that's talked about here. Who might those folks be? Obviously folks who have the wherewithal. Obviously they come with an agenda; whether it be that they are an alumnus of a private school, or they have a religious interest that they want to promote. Somehow or other we, in this state, have got to get over that issue, with that being important, when sustainability of education will become more prominent. We've got to, I think, as they have in other states, encourage that to happen. This is a proposal that would do that. It's not something we're going to be able to fund now. I would say to you, look at the fiscal note here. \$30 million sounds like a lot of money, but look at what we're spending on education. The question is how are we going to do that in the future, and I'm saying to you this is something we ought to, and are going to need to, do sometime. Thank you, Madame President.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'd like to make just two points. Some have already been made. If you would read the summary of this. These are scholarships that go to public or private school students, so in my mind it's a matter of choice, who are in kindergarten through grade 12, and who are from households that qualify for the federal free and reduced lunch program. I would make a comment on the fiscal note if I may. This is a \$2,500 tax credit given to a stand alone organization. That stand alone organization could give the money to anyone in the category of free and reduced lunch. If you divide the \$30 million by \$2,500 you get about 12,000, which means you might take the 12,000 out of education. I know we have some charter schools, and allow them to leave. I guess it's a little bit of the competition President Obama has talked about in the past, but apparently not in Maine, it would save probably \$10,000 per child. This gets you to a savings of about \$120 million, in my mind. That's the choice you're going to make. If we want free and reduced lunch kids, kids that might get stuck in one school, to go someplace else and I think that's what you're really voting on here. 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, we have seen over the last several years the involvement of our business community in our children's education in many, many ways. This bill represents an extension of that, an opportunity for them to put money into their discussion, to offer scholarships for children who may not be thriving in one school, and offer them success for the future. This is not new. Lots of states do this. There is a fiscal note, but I would hope that we would certainly keep in mind the benefits and the numbers that we've just heard. The business community understands the

importance of education in our state and they want to participate, even in this way. Thank you.

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

SECOND READERS

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

House As Amended

Bill "An Act To Ensure Public Access to Records Relating to Public Contracts for Personal Services"
H.P. 454 L.D. 640
(C "A" H-292)

Bill "An Act To Amend the Statute of Limitations under the Maine Human Rights Act"
H.P. 763 L.D. 1108
(C "A" H-293)

Bill "An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers"
H.P. 910 L.D. 1307
(C "A" H-294)

Bill "An Act To Amend the Charter of the Addison Point Water District"
H.P. 920 L.D. 1317
(C "A" H-296)

Bill "An Act To Amend the Aquaculture Laws"
H.P. 977 L.D. 1398
(C "A" H-278)

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

Senate As Amended

Bill "An Act To Exempt School Administrative District 12, School Union 37 and School Union 60 from the Laws Requiring School Administration Consolidation" (EMERGENCY)
S.P. 170 L.D. 467
(C "A" S-186)

Bill "An Act To Address an Inequity in the Judicial Retirement System"
S.P. 184 L.D. 488
(C "A" S-174)

Bill "An Act Concerning Domestic Violence and Firearms"
S.P. 265 L.D. 690
(C "A" S-181)

Bill "An Act To Encourage Maine Residents To Attend Medical School and Practice in Maine"

S.P. 322 L.D. 853
(C "A" S-178)

Bill "An Act To Extend the Jurisdiction of the Commission on Governmental Ethics and Election Practices to the Executive Branch"

S.P. 361 L.D. 978
(C "A" S-173)

Bill "An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit"

S.P. 432 L.D. 1184
(C "A" S-175)

Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 438 L.D. 1190
(C "A" S-176)

Bill "An Act To Correct Inequities for Certain Maine Community College System Employees in the Maine Public Employees Retirement System"

S.P. 452 L.D. 1219
(C "A" S-183)

Bill "An Act Regarding the Licensing Fees for Certain Professional Programs"

S.P. 504 L.D. 1388
(C "A" S-171)

Bill "An Act To Amend the Laws Governing Emergency Management"

S.P. 510 L.D. 1391
(C "A" S-182)

Bill "An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking"

S.P. 513 L.D. 1429
(C "A" S-177)

Bill "An Act To Clarify the Purpose of the Notice Requirement of Land Taking by the Department of Transportation"

S.P. 524 L.D. 1440
(C "A" S-184)

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

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

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

H.P. 133 L.D. 154
(C "A" H-112; S "A" S-131)

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 To Designate July 12th as Wyeth Day

H.P. 979 L.D. 1400
(C "A" H-251)

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 Resolve

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

H.P. 69 L.D. 79
(C "A" H-49)

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

Acts

An Act To Promote Public Safety Answering Point Efficiency

H.P. 393 L.D. 555
(C "A" H-254)

An Act Relating to Sales Tax on Certain Trailers

H.P. 624 L.D. 906
(C "A" H-262)

An Act To Amend the Laws Governing Legislative Ethics

S.P. 365 L.D. 982

An Act To Improve Children's Safety in Public Swimming Pools
H.P. 804 L.D. 1165
(C "A" H-261)

An Act To Revise the Charter of the Portland Water District
H.P. 815 L.D. 1176

An Act To Amend the Laws Concerning Child Abuse and Neglect
Councils
H.P. 882 L.D. 1263
(C "A" H-260)

An Act To Enable Municipal Assistance for Purposes of
Protecting or Restoring Public Waters
H.P. 914 L.D. 1311
(C "A" H-263)

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

An Act To Track the Prevalence of Childhood Obesity in Maine
H.P. 255 L.D. 319
(S "B" S-164 to C "A" H-130)

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

An Act To Allow the Licensing of Minibars in Hotel Rooms
H.P. 318 L.D. 430
(H "A" H-290 to C "A" H-134)

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

An Act To Fund the Screening and Early Detection Elements of
the Statewide Cancer Plan
H.P. 484 L.D. 701
(C "A" H-250)

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

An Act To Provide a Sales Tax Refund for Fuel Used in
Commercial Agricultural Production
H.P. 720 L.D. 1045
(C "A" H-247)

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

An Act To Add Combat Action Badges and Ribbons to the Special
Commemorative Decals for Veterans License Plates
H.P. 814 L.D. 1175
(C "A" H-264)

On motion by Senator **DAMON** of Hancock, placed on the
SPECIAL HIGHWAY TABLE, pending **ENACTMENT**, in
concurrence.

Resolves

Resolve, To Direct the Department of Education and the
Department of Health and Human Services To Implement
Strategies To Increase the Provision of Oral Health Screenings to
Preschool Children and Children Entering School
H.P. 84 L.D. 100
(C "A" H-255)

Resolve, To Review the Maine Registry of Certified Nursing
Assistants
H.P. 608 L.D. 877
(C "A" H-259)

Resolve, Regarding New Utility Line Extension Construction
H.P. 670 L.D. 968
(C "A" H-253)

Resolve, Directing the Commissioner of Professional and
Financial Regulation To Conduct a Sunrise Review Regarding a
Proposal To License Wetland Scientists
H.P. 859 L.D. 1240
(C "A" H-249)

Resolve, Directing the Department of Professional and Financial
Regulation To Conduct a Sunrise Review Regarding the Proposal
To License Certain Mechanical Trades
H.P. 860 L.D. 1241
(C "A" H-248)

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

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
(5/12/09) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding Grassroots Lobbying"

H.P. 246 L.D. 310

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-208)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 12, 2009, by Senator **GOODALL** of Sagadahoc

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

(In House, May 7, 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-208).**)

(In Senate, May 12, 2009, Reports **READ.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#91)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-208) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Create a Scholarship Granting Organization Tax Credit"

S.P. 465 L.D. 1284

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-187)** (6 members)

Tabled - May 21, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report. (Roll Call Ordered)

(In Senate, May 21, 2009, Reports **READ.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#92)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED.**

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

On motion by Senator **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:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish Head Injury Safety Requirements for School Athletic Programs"

H.P. 903 L.D. 1300

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-319)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-319)**.

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

READ ONCE.

Committee Amendment "A" (H-319) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Adopt the Interstate Compact on Educational Opportunity for Military Children"

H.P. 928 L.D. 1324

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-318)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-318)**.

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

READ ONCE.

Committee Amendment "A" (H-318) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR** on Bill "An Act To Assist Maine Workers and Businesses in Succeeding in a Changing Economy"
H.P. 1025 L.D. 1474

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-321)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-321)**.

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

READ ONCE.

Committee Amendment "A" (H-321) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Amend the Laws Governing Liquor Liability and Licensing"

H.P. 673 L.D. 971

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-325)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-325)**.

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

READ ONCE.

Committee Amendment "A" (H-325) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Generate Savings by Changing Public Notice Requirements"

H.P. 890 L.D. 1271

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-330)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-330)**.

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

READ ONCE.

Committee Amendment "A" (H-330) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Restructure the State Planning Office"
H.P. 916 L.D. 1313

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-329)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-329)**.

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

READ ONCE.

Committee Amendment "A" (H-329) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Streamline Ratemaking for Consumer-owned Water Utilities"
H.P. 950 L.D. 1349

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-320)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-320)**.

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

READ ONCE.

Committee Amendment "A" (H-320) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Resolve

The Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Regarding the Maine State Cultural Building in Augusta
H.P. 1033 L.D. 1480

Reported that the same **Ought to Pass**, pursuant to Resolve 2007, chapter 151, section 4.

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.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator GERZOSKY for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs"
S.P. 305 L.D. 791

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-193)**.

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

READ ONCE.

Committee Amendment "A" (S-193) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Make Permanent the Allowance of Certain Commercial Vehicles between the Calais Border Crossing and Baileyville"

S.P. 490 L.D. 1355

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-192)**.

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

READ ONCE.

Committee Amendment "A" (S-192) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

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

ENACTORS

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

Emergency Measure

An Act To Amend the Retail Tobacco and Liquor Licensing Laws
S.P. 165 L.D. 462
(C "A" S-83; S "A" S-163)

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

Emergency Resolve

Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings

S.P. 357 L.D. 935
(C "A" S-155)

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

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

ENACTORS

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

Acts

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

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

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)

An Act To Allow Qualified, Licensed Denturists To Practice to the Level of Their Educational Training

H.P. 493 L.D. 710
(C "A" H-272)

An Act Regarding Subrogation of Medical Payments Coverage

H.P. 513 L.D. 754
(C "A" H-168)

An Act To Change the Maine HIV Advisory Committee

H.P. 596 L.D. 865
(C "A" H-243)

An Act To Regulate the Use of Traffic Surveillance Cameras

H.P. 854 L.D. 1234
(C "A" H-225)

An Act To Amend the Laws Governing Games of Chance

H.P. 947 L.D. 1346
(C "A" H-267)

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

H.P. 993 L.D. 1417

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

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

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

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

Resolves

Resolve, To Study Safety Measures Relating to Open Trenches and Excavations

H.P. 756 L.D. 1094
(C "A" H-269)

Resolve, Directing the Bureau of Maine Veterans' Services To Report on Homeless Veterans

H.P. 765 L.D. 1110
(C "A" H-265)

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

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

ENACTORS

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

Acts

An Act To Empower Anglers in Fish Stocking Decisions
H.P. 497 L.D. 714
(C "A" H-246)

An Act To Increase Snowmobile Registration Fees
H.P. 559 L.D. 823
(C "A" H-245)

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

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

COMMUNICATIONS

The Following Communication: S.P. 564

**STATE OF MAINE
124TH MAINE LEGISLATURE**

May 21, 2009

Sen. Troy Dale Jackson
Senate Chair, Joint Standing Committee on Labor
Rep. John L. Tuttle, Jr.
House Chair, Joint Standing Committee on Labor
124th Legislature
Augusta, ME 04333

Dear Senator Jackson and Representative Tuttle:

Please be advised that Governor John E. Baldacci has withdrawn his nomination of Sophia Wilson for appointment to the Maine Workers' Compensation Board, pursuant to Title 3 M.R.S.A. § 154.

This nomination is currently pending before 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 **LABOR**.

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/18/09) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Repeal the Informed Growth Act"

S.P. 83 L.D. 242

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-162)** (7 members)

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

Tabled - May 18, 2009, by Senator **RAYE** of Washington

Pending - motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report (Roll Call Requested)

(In Senate, May 18, 2009, Reports **READ**.)

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise to urge the Senate to oppose and vote against the pending motion and then move on to the bipartisan Majority Report of the Committee, which recommends the repeal of the Informed Growth Act. That's all this bill is. It's a very short, sweet one-liner. Why do I do this? I do it not because I'm opposed to the thoughtful management of growth of business and development in Maine by state and local ordinance. I do it because I believe the Informed Growth Act itself is fundamentally flawed. Really the reason behind this Act was not to manage growth, but to effectively prevent large-scale retail development anywhere in Maine. As written, the Act sends a message from the Legislature that free market competition is unwelcome in Maine, especially from away. In this economic climate I find it hard to believe that this message is what this Legislature wants to

endorse. There is another bill that might propose to amend this Act by allowing municipalities that want to avoid its effect through different means. I understand that bill is not before us right now, although it may have been on our calendar, so I won't speak of it. I won't even mention it, but in context. I want you all to understand that if we have passed an Informed Growth Act that is intended to apply to all of Maine, why, in the theoretical sense, would we be considering amending it to allow towns to get out of it? Because that might be what some bill might do.

I really want to talk about this Act. This bothers me because informed growth sounds like a subject that we all have to be in favor of. I want to point out some of the flaws of this Act, and it will take a couple of minutes to do so. The substance of the Act is that a comprehensive economic study has to be conducted by a qualified preparer as part of a land use permit for large-scale retail development involving more than 75,000 square feet. The municipal reviewing authority has to deny the permit if an undue adverse impact will result as a result of this study. The Act gives criteria that must be weighed in determining whether or not such an impact exists. What sounds wrong with that? Really nothing on the surface. That's what we should be doing, doing impact studies. Let's look a little deeper. First, who's going to conduct this study? It's going to be conducted by a 'qualified preparer taken from a list maintained by the Maine State Planning Office.' I took a recent look at this list and it contains only ten names, eight of them are from out of state. The chances are that the fate of a proposed retail development in a Maine community rests not in the hands of its citizens, but in the hands of a qualified preparer from Chicago, Illinois; Austin, Texas; or Arlington, Virginia. Are we really willing to take these local decisions out of the hands of our communities and turn them over to someone in Texas?

Worse though, in my mind, are some of the factors that the Act lists that would cause an undue adverse impact such as: the effects of the development on existing retail operations; the number and location of existing retail establishments, where there is an overlap of goods and services; captured share of existing retail sales; sales revenues and how much is retained and reinvested in the impact area; and the amount of public subsidies, including tax increment financing. What I take from this is that a retail development can be denied a permit because of its undue adverse impact if it affects existing retail operations, if it will compete with existing businesses by offering goods and services that are already available, or capture what is perceived to be too big a share of existing retail sales. Isn't free competition in the marketplace the principle that drives our economy? Is it the public policy of this Body, of this Legislature, to discourage competition? Could we ever tell a small hardware store that it can't open because there is already another small hardware store in town? I don't think we would. Is it the public policy of Maine that investment in retail development is less welcome if the developer is from out-of-state because that means less of the sales revenue would be retained in Maine? If we expect economic growth in Maine, I hope it is not. If we expanded this logic to other industries, I'm pretty sure that the people at the Department of Economic and Community Development would not find this to be a helpful policy in attracting economic investment into Maine.

Finally, I find it really hard to believe that one of the potential negative impacts is the fact that a development had a public subsidy through a TIF, tax increment financing. I don't think these large-scale retail developments generally use TIFs, but I'm amazed that this Act takes what I thought was a positive tool for

economic growth and turns it into a negative. For all of these reasons, I urge this Senate to vote against the pending motion and take up the bi-partisan Majority Report and repeal this Act. Let's start fresh so we don't have to potentially deal with some other bill that has to get those municipalities that are stopped in their tracks because of a law like this out of it. Let's pass a law that could apply fairly to each and every town, and allow good, solid impact studies and the like in planning, but not discourage the type of economic investment that we need in Maine. Thank you very much, Madame President.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I rise to defend the pending motion. Like my good friend, I won't speak of a bill that is not before us now, although we all did vote for it earlier today. The issue of undue adverse impact is that it has to outweigh, which the good Senator was referring to, the positive impact. It has to be more negative than positive. It's not that it just has some adverse impact. The adverse impact has to be greater than the positive effect of having the new development. I think the reason why the committee voted, and the rest of us voted, on the bill earlier today was to make it so municipalities who have the ability to do these studies on their own don't have to repeat inventing the wheel. The reason I support the pending motion is the same as the Mid-coast Chamber of Commerce who, in their testimony, stated they surveyed their membership on two questions: an outright repeal of the Informed Growth Act, which they were not in favor of, and the L.D. which we voted on earlier today, which they had overwhelming support for. Strangely enough, I agree with the Chamber of Commerce, and I hope the rest of you will as well. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. May I have your permission to pose a question?

THE PRESIDENT: The Senator may pose his question.

Senator **ROSEN:** Thank you, Madame President. Since the Informed Growth Act was enacted in 2007, my question is has the state seen one single new application for a 75,000 square foot or greater retail project, and if so, where?

THE PRESIDENT: The Senator from Hancock, Senator Rosen 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. Men and women of the Senate, I believe the answer is no. There have been no applications since the Act was filed for new development. I do believe there may be one pending proposal, because it also covers additions to existing large-scale stores. I think there is one store, and it may be in Skowhegan, but I'm not sure, that has made application to construct an addition to its store.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I had not intended to speak, but will because of the last question that had been posed, which implies that somehow the Informed Growth Act was responsible for perhaps somehow dampening economic development. I believe it does not speak well to try and blame the Informed Growth Act, in an economy that is significantly downturned, for what may be considered lack of applications for development. I just think that we need to look at the whole, rather than trying to point blame or imply that somehow the Informed Growth Act is responsible for a lack of applications for large-scale development. Thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I supported the other bill today. I supported this Informed Growth Act when we enacted it before. In my opinion, if we haven't had more big box applications in the last year, I would say it's good that we haven't because, as I said last session, when I think about big box stores one phrase comes to mind for me and that is from away, going away. They sell products from away and the profit goes away, and the little business that was there is no longer there. I try my damndest to stay out of the big box stores and try to shop at the little hardware store, at the local business, because that puts money into our economy, not someone else's economy. I'll be supporting the pending motion. Thank you.

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

THE PRESIDENT: The 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 (#93)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/20/09) Assigned matter:

Bill "An Act To Promote Youth Hunting License Sales"
H.P. 865 L.D. 1246
(C "A" H-276)

Tabled - May 20, 2009, by Senator **BRYANT** of Oxford

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276)**, in concurrence

(In House, May 18, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276)**.)

(In Senate, May 20, 2009, **READ A SECOND TIME**.)

On motion by Senator **BRYANT** of Oxford, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-276), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-191) to Committee Amendment "A" (H-276) **READ**.

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

Senator **BRYANT:** Thank you, Madame President. Men and women of the Senate, this amendment just takes a technical error that was in the bill and fixes it. It also moves from \$800 to \$1,200 for out-of-state youth licenses.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I'm just trying to get some clarification. Does this increase a combination license from \$800 to \$1,200? Is that the increase?

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 Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, that is a correct number. This is a non-resident lifetime license for kids age 16 and under. We implemented that in Committee and that's a correct number. That

number is programmed so that it's a lifetime opportunity for non-resident kids to buy that license.

Senator **SULLIVAN** of York requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, unfortunately we didn't have a chance to caucus this amendment, but I would try and reinforce the Senate Chair, the Senator from Oxford, Senator Bryant, that this is a friendly amendment. I think this is consistent with what the Committee wanted to do, and I just wanted my caucus to know that. Thank you.

On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-191) to Committee Amendment "A" (H-276) **ADOPTED.**

Committee Amendment "A" (H-276) as Amended by Senate Amendment "A" (S-191) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276) AS AMENDED BY SENATE AMENDMENT "A" (S-191) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/20/09) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Require Motorcyclists To Wear Helmets"

H.P. 341 L.D. 453

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-297)** (2 members)

Tabled - May 20, 2009, by Senator **BARTLETT** of Cumberland

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

(In House, May 18, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 19, 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 Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm rising to urge you to support the pending motion of Ought to Pass, and I will make a few remarks regarding that. It's a fairly contentious issue and if you haven't observed that already, you will. In the committee, when we heard this bill, we also heard the constant refrain of 'let those who ride decide.' 'Let those who ride decide.' Unsaid in that is that it's their right to do that. It's their right to ride without a helmet. We heard it from biker groups, we heard it from club members, and we heard it from those who told us there is conclusive evidence, conclusive evidence, that wearing a helmet is actually more dangerous when you operate a motorcycle, or ride on one, than not wearing a helmet. A helmet reduces one's hearing, restricts the field of vision, and it substantially contributes to more serious neck injuries to the wearer when a crash occurs. We heard that. The committee also heard much testimony from healthcare professionals citing various studies published in professional journals, such as the Journal of Health Economics, the Injury Prevention Journal, the American Journal of Public Health, and the Cochrane Database Review, claiming that helmets do, in fact, substantially reduce the incidence of head trauma and fatalities associated with head injuries.

During the public hearings there always seems to be some particular testimony that raises one's eyebrows and that has me think differently than I had been thinking, or serves to cement my thinking as I had been thinking. Mark Kiefner, a PhD neuropsychology consultant, who one would say better informed on brain and head injuries than most and is perhaps even an expert on those matters, told of a client of his who died following a very long period of care after his motorcycle accident. He was not wearing a helmet and he suffered a severe head injury as a result of not wearing a helmet. Following the accident, while he continued living and following the medical treatment and the long-term rehabilitation paid for by MaineCare, his total cost borne by the State of Maine, by you and me, was in excess of \$10 million. So you let those who ride decide. The Libertarian in me agrees with that statement even though the Democrat in me wants to protect everyone I can, even if at times it means I try to protect them from themselves, and the Republican in me wants to make sure that I don't spend tax dollars taking care of somebody else's actions. I understand all three of those views, and I agree with all three.

You can understand how I am conflicted. You can see that I am indeed conflicted on this issue. I have ridden my motorcycle while wearing a helmet and also while not wearing a helmet. I enjoy the latter more than the former. I was free. The devil may care, and if he didn't, neither did I. As Seinfeld's Kramer would

say, 'I was out there, Jerry. I was free as a bird and just lovin' it!' Now ladies and gentlemen, the facts surrounding this issue have been weighed, and the balance has been tipped for me, and I hope for you. It's been tipped in the facts that led me to the position that indeed, just as we have required occupants in a car or truck to wear a seatbelt, we should require motorcyclists and passengers to wear helmets. Now if this motion were to succeed, and I have every expectation that it won't based on what I've heard, I would be prepared to talk to you again about a way that we could allow people to ride both with a helmet and without one if they so chose. That's a different piece of paper and I don't think that this Body is going to let me introduce that as an amendment. So you vote, and you let those who ride decide, and you let those who pay continue paying. Thank you, Madame President.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in opposition to this bill. I think it is no surprise to anybody that I've been riding a motorcycle for a long time. I think people here know that. I've been in boats, and plenty of people get in accidents in boats, and if they have an accident they might get injured. People riding in many forms of transportation might have an accident. I was one of those who testified in front of the committee and spoke about how actually riding with a helmet and without a helmet affects the riding. Now some people might think it doesn't affect your hearing, but I certainly know it does mine. Some people say it might not affect your vision, but I certainly know it affects my peripheral vision. If I can't hear a car pulling up next to me, I'm in danger. Now we do have a law in the State of Maine for wearing helmets. First-year riders have to wear a helmet. We put that in back in the '80s when we got rid of the mandatory helmet law for all riders. We made an exception that first-year riders should wear a helmet. We've since made an exception that 17 and 18-year-olds should wear a helmet. Let those who ride decide. Especially if they are mature enough to make that decision. I'm mature enough to make the decision if I want to ride with or without a helmet, and depending on the weather I choose one or the other. This afternoon it's about 90 degrees out and I plan on getting home in time to go out for a ride, without a helmet. If it's October or November, I might decide to wear a helmet because of the weather, but I think it's my right to be able to decide.

We've had literature handed out today that shows some of the tourist activities that motorcycle riders come from around the country to ride in New England. They like riding in Maine because it's beautiful. We have beautiful highways, and they're not congested too much with traffic if you stay off the coast. They like to ride in New Hampshire. New Hampshire doesn't have a helmet law. They don't like to go to Vermont too much, so we get the benefit of that. I want to be against this motion to amend this bill because I don't think it's necessary. I don't think it's warranted, and I certainly don't think it gives more safety to motorcycle riders. I think it does just the opposite.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I don't ride a motorcycle, but I am very much in opposition to this piece of legislation, as I was with the

seatbelt law. Do I think people should wear protective gear when they either ride in their automobile or on their motorcycles? Yes. Something about freedom really disturbs me in this country. We take it for granted. We are allowing our freedoms to be picked off one by one, because somebody doesn't like paying what perhaps might be a cost later on down the line. This is disturbing to me. I don't think people should be able to climb into my car and say that I must wear my seatbelt. Should I? Perhaps I should, but I am totally opposed to it because we would somehow be penalized or get less money from the federal government. It's the insurance lobby climbing into our automobiles with us, telling us what we should and shouldn't do, so they don't have to pay more if we were to have an accident. I have a real problem with that.

I'm in opposition to smoking in public spaces. However, I'm totally in opposition to going into somebody's home, or into a club where that club can decide whether or not their patrons, by a vote, want to either smoke or not to smoke. I don't think it's appropriate for us to go into people's homes and decide what they should and should not do, even if it's in opposition to what might be best for their health. Why? Because it's picking away at those fundamental freedoms that I think too often we take for granted, and I think this should be considered one of those freedoms. I absolutely think that we are too quick to allow government to intervene into our freedom of choice in this country.

I remember when a person I know well who has an island had invited me to have a celebratory election party on this island. I said, 'No, George, I'm not interested in having my party over on your island.' He asked, 'Why not?' I said, 'Well, you have cameras everywhere.' He had it done to protect in a terrorist situation, it was sort of like a test for terrorism and he had all these cameras everywhere. I just don't think we should have government intervene or have people watching over us like Big Brother, and this is Big Brother, absolutely. I hope that you will not support the pending motion, because this is slowly but surely picking away at our freedoms. Thank you, Madame President.

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

Senator **MARRACHÉ:** Thank you, Madame President. Madame President, men and women of the Senate, I wasn't going to speak on this issue, but I figure I had better now at this point. First of all, I'm going to go along with the Minority Report. As a provider, I have to say that you can't take a better time to talk about this issue because the recent death that we suffered and all had to read about of Natasha Richardson. She was just skiing down a hill without a helmet. Not wearing a helmet puts you at an incredible risk of a head injury. You may survive it, but you may not be normal afterwards. We've seen it time and time again. If we make people wear helmets when they're riding a bike, or when they're skiing down a hill, you sure as heck should be having people wear them when they're riding on a motorcycle going the speed limit on a highway.

When we do risk assessments on our patients, especially our adolescents, we go through the whole review of systems, and we also ask people, 'Do you wear a seatbelt? Do you wear a helmet when you're riding a bike?' We ask these things to try and educate people that there are choices that you make in life and that you need to be well aware that your freedoms are one thing, and it's great to have them, but you also need to understand that you put yourself in a very bad place if you choose not to wear a

helmet. In the end, as the good Senator mentioned earlier, it costs us all a lot of money because brain injury victims cost a lot in rehabilitation. We're all paying for that. Thank you.

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

Senator **CRAVEN:** Thank you, Madame President. Men and women of the Senate, life, liberty and the pursuit of happiness is a right. Almost all other privileges that we have are just that, a privilege. If you've ever worked with a group of people who have head injuries, it's heartbreaking and it's very expensive. Almost all of them rely on MaineCare payments not just for a short time while their injuries are being tended to, but for the rest of their lives. The incidence of recovery are so miniscule that they will probably never be able to work again if they've had massive brain damage from their injury. I'm going to support this motion. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

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

THE PRESIDENT: The Senator may pose his question.

Senator **DAMON:** Thank you, Madame President. I've heard in some of the comments a little earlier that there was opposition to the amendment. Is there an amendment before us? Thank you.

THE PRESIDENT: The Chair would answer in the negative. The pending question is the motion to accept the Minority Ought to Pass Report.

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

Senator **GERZOFSKY:** Thank you, Madame President. Men and women of the Senate, then we'll talk about that. Thank you, I thought we were debating an amendment, but I hope we don't get there yet. Christopher Reeves, Superman, fell off a horse with a helmet on, and he spent the rest of his life in bed. I don't know who paid for that. He was probably wealthy enough to, but whether he was wealthy enough to or not, he wasn't on a motorcycle he was on a horse. At the same time, riding a motorcycle, as we all know, is inherently dangerous. I know that every time I get on my bike. Getting on a four-wheeler is inherently dangerous out in the woods. Getting on a snowmobile is inherently dangerous in the wintertime. There are many things that we do that are inherently dangerous. Trying to walk across Main Street is inherently dangerous in some towns, mine being one of them. We have to remember that we all get to choose. It's an inalienable right, or a privilege, how we conduct our lives. That's what this bill is about. It's not about the medical profession. I sit on a board of directors of a hospital. I know many of the hospital issues and the cost of giving care. I carry insurance on my motorcycle if I should get in an accident. The Minority position on this bill is what I'm fighting against and what I'm going to vote against. I hope the members of this Body will do the same. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in opposition to the Ought to Pass Report being accepted and I'll speak briefly to why that is. It's very difficult to stand and oppose something that may make life safer for people, but this issue reminds me a lot of the movie 'Titanic' when Kate Winslet stands on the bow of the Titanic and the wind is racing through her hair and she's absorbing the freedom of the ocean around her. That moment is just something that is important to free Americans and our way of life. I wouldn't recommend that on a motorcycle because you might get a bee in your teeth, but for the purposes of freedom it's just such an awesome opportunity to just feel that freedom. I guess riding a motorcycle represents that type of thing for me. As much as I'd like the world to live in a bubble, for no one to ever be injured, and for life to be wonderful for everyone, that's just not life. Sometimes a little bit of risk is worth it. In this case I would oppose this and hope that the Senate will as well.

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

Senator **SIMPSON:** Thank you, Madame President. Madame President, men and women of the Senate, I rise just to give you some more information. In case people were unaware, I went to a meeting in Washington in April with the Task Force on Military Preparedness. One thing the military is working on is trying to get states to pass helmet laws. You might find that a little odd, but more Marines died in motorcycle accidents last year than died in Iraq and Afghanistan. As we think about this Memorial Day and our armed service people, we might want to consider that having them stay in the armed forces and be able to finish their tours of duty after they come home on leave and go back safely. This is an important issue to the American military. Not just the Marines, but the Navy and Army have also seen spiking increases in deaths by motorcycle accidents stateside. Thank you.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. Is there a helmet law? Earlier on there was reference to helmets being used when skiing. I was just wondering if there is a helmet law in place for skiing currently and if not, is that a proposal we are to see?

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

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I wasn't going to get up on this issue, but in response to the question from the good Senator from Penobscot, I am a skier and you do not have to wear a helmet. I always wear

a helmet, especially when I go to Sugarloaf, but it's optional. That's the way I feel, that it's the choice in the matter. I recommend that all motorcyclists wear helmets, but I'm not going to vote that way. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Minority 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 (#94)

YEAS: Senators: ALFOND, BARTLETT, BOWMAN, BRANNIGAN, CRAVEN, DAMON, MARRACHE, MILLS, SIMPSON

NAYS: Senators: BLISS, BRYANT, COURTNEY, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SMITH, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

ABSENT: Senator: SHERMAN

9 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

On motion by Senator **DIAMOND** of Cumberland, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Emergency Measure

An Act To Provide Free Admission to State Parks to Veterans and Military Personnel

S.P. 159 L.D. 456
(C "A" S-69; S "A" S-74)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, April 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-69) AND SENATE AMENDMENT "A" (S-74)**.)

(In House, May 5, 2009, **PASSED TO BE ENACTED**.)

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.

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 26, 2009, at 10:00 in the morning.