

MAINE STATE LEGISLATURE

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State of Maine

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

In Senate Chamber
Tuesday
June 2, 2009

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

Prayer by Reverend John Rafter, St. Thomas' Episcopal Church
in Camden.

REVEREND RAFTER: President Mitchell and members of the
Senate, thank you for the invitation and honor of leading you in
prayer this morning. I have composed a form of prayer I call a
Maine benedicite for this morning. A benedicite is a Latin term for
a form of scriptural poetry that addresses the creation in order to
praise the Creator. For this day I have written a Maine
benedicite.

O all ye works of the Lord, bless ye the Lord;
Praise Him and magnify Him forever.

Brilliant-lighted day and dark, enfolding night;
Running sap and clinging mud;
Summer sky and autumn leaf;
Bless ye the Lord.

Island of granite and meadow of grass;
Flooding river and shimmering lake;
Berry-covered mountain and organic farm;
Bless ye the Lord.

Crying loon and scolding crow;
Diving hawk and wheeling gull;
Majestic moose and Belted Galloway;
Bless ye the Lord.

Mill-town and city and unemployed worker;
Wilderness and village and summer hiker;
Resident of Mexico and China and Peru;
Bless ye the Lord.

Merchant and tourist;
Artist and laborer;
Lobsterman and student;
Bless ye the Lord.

Newly-arrived immigrant and native-born Mainer;
Writer of laws and worker for justice;
All people in all places;
Bless ye the Lord.

O all ye works of the Lord, bless ye the Lord;
Praise Him and magnify Him forever.

Amen.

Reading of the Journal of Monday, June 1, 2009.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, Regarding Continuity of Care in the Child Development
Services System

S.P. 188 L.D. 489
(C "A" S-232)

In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-232).**

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-232) AND
HOUSE AMENDMENT "A" (H-487), in NON-CONCURRENCE.**

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE,
CONSERVATION AND FORESTRY** on Bill "An Act To
Permanently Establish the Position of Director of Recreational
Access and Landowner Relations"

H.P. 594 L.D. 863

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-153).**

Signed:

Senator:

BRYANT of Oxford

Representatives:

PIEH of Bremen
PERCY of Phippsburg
SMITH of Monmouth
PRATT of Eddington
KENT of Woolwich
O'BRIEN of Lincolnville
McCABE of Skowhegan

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

Signed:

Senators:

NUTTING of Androscoggin
SHERMAN of Aroostook

Representatives:

GIFFORD of Lincoln
CRAY of Palmyra
EDGECOMB of Caribou

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-153) AS AMENDED BY HOUSE AMENDMENT "A" (H-447)** thereto.

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

On motion by Senator **BRYANT** of Oxford, 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 Oxford, Senator Bryant.

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, we had a number of discussions yesterday around the issues of ATVs, snowmobiles, watercraft, and basically the public using other people's land. This position that we have here is a landowner relations position that was put in about three or four years ago. What it tries to do is connect all the dots. It tries to work with IF&W. It tries to work with Conservation. It tries to work with Agriculture. It tries to work with all your other groups such as the Maine Snowmobile Association, SAM, and a number of other people to put a plan together and continue to work on the State of Maine so that you can keep land open to go hunting and fishing and recreational use. In the beginning this position was funded at a 60% from IF&W and 40% from Conservation. As that went through this year some of that funding wasn't there. What this bill does is allow IF&W to fund its share of the Landowner Relations job. I believe it's important for the state. It's important for landowners. I urge you to vote against the pending motion.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm amazed at what a difference a few weeks makes. We just struggled with the Conservation and the IF&W budgets as part of our larger budget document. In the end, the Conservation budget we increased the property taxes on the unorganized territory residents in order to meet that Department of Conservation budget. We did not include, from our committee of jurisdiction, a recommendation to fund our half of this position. The IF&W budget, they struggled with that as well. Kept working and working on it. In the end the IF&W budget increased fees on hunting and increased fees on boat registration in order to try to meet that budget. Now all of a sudden after the budget's passed,

the Department of Inland Fisheries and Wildlife has put forth that they can take another \$60,000 from the DICAP fund in order to fund this position. My question to the Body is why wasn't that DICAP funding put on the table to meet the budget in the first place? The answer, I believe, is that this is a political appointee position at \$96,000 a year now. Year three of the job, \$96,000 a year. We had a bill in our committee that we've enacted and has been signed. This bill, earlier this session, was brought to us by the Snowmobile Association, by the Small Woodland Owners Association, by the Sportsman Alliance of Maine, and other groups wanting the natural resources departments to develop landowner relation policy. We agreed with them and we've enacted that bill. My question is if we have someone in that position at that rate of pay, why do we have to have a separate bill this session to try and develop landowner relations policies from the various departments this position is suppose to be working with in the first place? What that says to me is the job isn't being done. We're living in tough economic times and I'm afraid our economy is going to be struggling for a while into the future. I think that with this position the money can be spent more wisely in other ways. I urge you to accept the pending motion. Thank you.

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

Senator **GOODALL:** Thank you, Madame President. Men and women of the Senate, I rise today in support of the good Senator from Oxford in opposing this motion. I have a good friend and constituent in the town of Richmond that had a similar position, looking out for landowner relations for IF&W. Today he serves on a board that is in full support of this. I should actually say that he's in full support of this position. I've learned a lot about what the position can do, what added value this position can do for our landowners. Our industries depend on keeping access available to all the properties, all the wonderful trails and all the wonderful hunting areas that we have across this state. I would strongly encourage you to oppose this motion because, truly, we need to get more access to land. We don't need more land posted. A lot of times the person in this position can help work with landowners so they do not post their land when something happens on their land. They can figure out a solution. They can work outlying organizations to come and volunteer on these properties. I think it's very important that we oppose this motion. Thank you, Madame President.

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

Senator **ROSEN:** Thank you, Madame President. Men and women of the Senate, I would like to take the opportunity to clarify some information that's in a handout on our desks that relates to the debate that we are having. It's a letter from Commissioner Martin and Commissioner McGowan encouraging support of the proposal in opposition to the pending question. It says, in the last paragraph, 'As the biennial budget was being closed, however, the Appropriations Committee was only able to identify half the funding needed; we now have identified the remaining funds.' As one member of the committee I'd just like to elaborate on that piece of information because there was a greater discussion than simply attempting to fund the position and not having the monies. We had two policy committees that were in great conflict over this

issue in terms of whether it should be funded or not. The action of the committee, speaking as one member, was a reflection of that divide. If we look, for instance, at the committee report to the original position reductions that were proposed, that impacted eliminating some of the positions on the LURC board. We had heard from ACF that their primary restoration priority were those LURC positions. They do refer to this bill in their report back, but said that they had tabled dealing with the bill and the work session until after we had dealt with the budget. We clearly understood that there was a disagreement over the full funding of this position from the two policy committees impacted, and the action taken in the budget, which was funding for half-time for one year, was a reflection of that disagreement which goes beyond simply a lack of funding. Thank you, Madame President.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in support of our good Senate Chair, the Senator from Androscoggin, Senator Nutting. I would just add a couple of things. When we had the public hearing on this position, we asked what this individual did. They handed us out 16 instances on a two page document, starting in York County, and going to Aroostook County. One of the wardens came up afterwards and I asked this gentleman to give us some of the important things this position had accomplished. Basically, I got no answer. Most of the stuff that was on that list given to us was enforcement issues and not landowner relationship issues. Four wheel trails going there. They talked to someone for this. Some of it had to do with trash, picking up trash type of stuff. It was not a very good presentation before the Agriculture Committee that would give you any faith that this was anything more than a political position, frankly.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I want to thank the good Senator from Hancock, Senator Rosen, for clarifying somewhat the status of this position. When I look at the House Amendment H-447 that is before us right now in this debate.

THE PRESIDENT: The Chair would advise that the only thing before us is acceptance of the Committee Report. The pending motion is your motion to Accept the Ought Not to Pass Report. Only after we accept any to pass report is any amendment before us.

Senator **NUTTING:** Thank you, Madame President. I would just say that the busiest time of the year for a landowner relations specialist is the summer. Because the original bill has had its emergency preamble stripped, even if we vote for this, there will be no one in this position this summer to do any work. Thank you.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, I will just say that there have been

some accusations that somehow this is a political appointee position. That's incorrect. The people that are saying it understand it too. This position was put out like any other position. They had seven people apply. Went through the process and they picked the best qualified person. That having been said, as we talked about the other day, if in fact we do not continue to try to work for, and make sure that our landowners are being taken care of, then our access to their land will be no more. It is paramount that we do what we can to make sure that the landowners in the state of Maine that allow us to use their land have as much ability to get things done when they need it, get their questions answered, and help stop them from posting their land to no trespassing. With that, I urge you to oppose the pending motion.

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

Senator **BARTLETT:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise briefly in opposition to the pending motion. I want to clarify something. As I was listening to the debate and I went back and looked at the Committee Amendment and so forth, the title is a little bit misleading. It suggests that we're creating, permanently, this position. The reality is what the bill and the Committee Amendment are seeking to do is to fund that position. It's not a matter of whether this position is going to exist or not, or be in statute, or be available. The question is simply whether and how to fund it. I think that's a different discussion than the larger policy question of whether the position should exist. Secondly, I do think, as the letter from Commissioner Martin and Commissioner McGowan in support of this position point out, there is an important role this position plays in bridging a gap between not only landowners, the State and the departments, but also by bringing these multiple departments together in achieving a common purpose of preserving access to this open land. For those reasons I oppose the pending motion.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, I speak on this bill and the motion strictly from the funding point of view as one member of the Appropriations Committee. We did look at this position. We looked at the \$92,000 position. We were able to agree on half of that, \$46,000. The concern I have is that now, somehow, through the fund we are now going to be coming up with another half of the funds. Knowing how hard the policy committees in both areas worked on this along Appropriations I think, from the Appropriations point of view and from the funding point of view, I'm concerned about this. I'll be supporting the current motion.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting 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 (#138)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Establish the Study Commission Regarding Teachers' Salaries (EMERGENCY) H.P. 367 L.D. 522

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-420)**.

Signed:

Senators:
ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:
SUTHERLAND of Chapman
FINCH of Fairfield
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
JOHNSON of Greenville

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

Signed:

Senator:
WESTON of Waldo

Representative:
McFADDEN of Dennysville

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-420)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-420) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries H.P. 597 L.D. 866

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

Signed:

Senators:
ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:
SUTHERLAND of Chapman
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
McFADDEN of Dennysville

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

Signed:

Senator:
WESTON of Waldo

Representatives:
FINCH of Fairfield
RICHARDSON of Carmel
JOHNSON of Greenville

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

Reports **READ**.

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

READ ONCE.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Department of Education and the Department of Agriculture, Food and Rural Resources To Convene a Work Group To Strengthen Farm-to-school Efforts in the State (EMERGENCY)

H.P. 784 L.D. 1140

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-461)**.

Signed:

Senator:
ALFOND of Cumberland

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

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

Signed:

Senator:
WESTON of Waldo

Representatives:
RICHARDSON of Carmel
JOHNSON of Greenville

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-461)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-461) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Fund the Dirigo Health Program through a High-risk Pool"

H.P. 831 L.D. 1206

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

Signed:

Senators:
BOWMAN of York
ALFOND of Cumberland

Representatives:
TREAT of Hallowell
PRIEST of Brunswick
BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
LEGG of Kennebunk
MORRISON of South Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-465)**.

Signed:

Senator:
McCORMICK of Kennebec

Representatives:
FOSSEL of Alna
WEAVER of York
RICHARDSON of Warren

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.

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Charter Schools in Maine" S.P. 522 L.D. 1438

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

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
LOVEJOY of Portland
RANKIN of Hiram
RICHARDSON of Carmel
McFADDEN of Dennysville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-283)**.

Signed:

Senator:

WESTON of Waldo

Representatives:

CASAVANT of Biddeford
WAGNER of Lewiston
NELSON of Falmouth
JOHNSON of Greenville

Reports **READ**.

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Reduce Income Tax Rates"

S.P. 469 L.D. 1288

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

PILON of Saco
VALENTINO of Saco
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-279)**.

Signed:

Senator:

NASS of York

Representatives:

LANGLEY of Ellsworth
CHASE of Wells
KNIGHT of Livermore Falls

Reports **READ**.

Senator **BLISS** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

SECOND READERS

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

House As Amended

Bill "An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities"

H.P. 39 L.D. 44
(C "A" H-369)

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

ENACTORS

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

Acts

An Act Regarding Emergency Involuntary Admission of a Participant in the Department of Health and Human Services' Progressive Treatment Program to a State Mental Institute

S.P. 101 L.D. 337

An Act To Amend the Department of Health and Human Services' Progressive Treatment Program

S.P. 105 L.D. 341
(C "A" S-197)

An Act To Amend the Law Concerning Adverse Possession

S.P. 133 L.D. 391

An Act to Regulate Swim Areas on Inland Waters

H.P. 303 L.D. 415
(C "A" H-304)

An Act To Allow the Award of Court Costs or Attorney's Fees in Protection from Harassment Actions

H.P. 471 L.D. 657
(C "A" H-336)

An Act To Provide for the Safe Collection and Recycling of Mercury-containing Lighting

H.P. 675 L.D. 973
(C "A" H-341)

An Act To Provide Consumer Disclosures and Protect Consumer Options in Life Insurance

S.P. 397 L.D. 1063
(C "A" S-200)

An Act To Promote Transparency and Accountability in Campaigns and Governmental Ethics

H.P. 766 L.D. 1111
(C "A" H-282)

An Act To Allow a Municipality To Grant a Variance for the Construction of a Parking Structure for a Person with a Permanent Disability

H.P. 811 L.D. 1172
(C "A" H-299)

An Act To Streamline the Process for Court-ordered Mental Health Examinations in Criminal Cases

H.P. 824 L.D. 1200
(C "A" H-337)

An Act To Update the Site Location of Development Laws

H.P. 887 L.D. 1268
(C "A" H-339)

An Act To Clarify the Laws Regarding Significant Groundwater Wells

H.P. 888 L.D. 1269
(C "A" H-340)

An Act To Amend the Charter of the Clinton Water District

H.P. 959 L.D. 1369
(C "A" H-338)

An Act To Clarify Apportionment of Benefits for Multiple Work Injuries

S.P. 500 L.D. 1384
(C "A" S-203)

An Act Pertaining to Response Costs Incurred by the Department of Environmental Protection under the Waste Motor Oil Disposal Site Remediation Program

S.P. 502 L.D. 1386
(C "A" S-204)

An Act To Assess the Physical Education Capacity of Elementary Schools in Maine and To Establish the Obesity and Chronic Disease Fund within the Department of Education

H.P. 983 L.D. 1407
(C "A" H-343)

An Act Relating to Biomass Gasification

S.P. 554 L.D. 1479

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 Increase the Jurisdictional Limit for Small Claims

H.P. 331 L.D. 443
(C "A" H-335)

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

An Act To Continue To Reduce Mercury Use and Emissions

H.P. 717 L.D. 1042
(C "A" H-346)

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 (#139)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and No Senator having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act To Increase the Safety of Maine State Troopers
H.P. 963 L.D. 1373
(C "A" H-322)

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

Resolves

Resolve, To Provide for the Long-term Funding of Programs of the Department of Inland Fisheries and Wildlife
S.P. 75 L.D. 225
(C "A" S-201)

Resolve, Related to the Maine Estate Tax
H.P. 653 L.D. 950
(C "A" H-334)

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

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles while Intoxicated"
H.P. 495 L.D. 712

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-363)** (8 members)

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

In House, May 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-363)**.

In Senate, June 1, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senator **GERZOFSKY** of Cumberland moved the Senate **ADHERE**.

Senator **NUTTING** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **GERZOFSKY** of Cumberland, 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 Nutting.

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'll be very, very brief. I think this is a very, very important bill. Again, it was supported by the Department of IF&W and the Secretary of State's office in its amended form. I had a constituent, who read about this in the morning paper, call me this morning in support of my position. Her point was a simple one that I wish I had thought about, but I had not. Her point is that you can be driving a car down the road, if you're stopped, and you're drunk you get an OUI. You can cross that exact same road, or drive down it for a while and cross it, with an ATV and snowmobile, drunk, and that does not count as an OUI offense. I know that the Snowmobile Association and other associations are opposed to this, but to me I think they need to take responsibility and say to their members, if you drink and snowmobile it's going to count as an OUI offense. We've had numerous folks, Maine residents, that have been recreational vehicle driving while intoxicated, that have pulled out in front of people driving along a highway, caused accidents, and hurt other people and themselves. The problem is getting worse. We heard from both of those departments mentioned earlier, so I urge you to support the pending motion. Thank you.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, I won't belabor this. We talked about this yesterday at great length and I would just urge you to oppose the pending motion.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting 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 (#140)

YEAS: Senators: COURTNEY, CRAVEN, DAVIS, GOODALL, GOOLEY, HASTINGS, MILLS, NASS, NUTTING, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SMITH, SULLIVAN, TRAHAN, WESTON

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, DAMON, DIAMOND, GERZOFKY, HOBBS, JACKSON, MARRACHE, MCCORMICK, PERRY, PLOWMAN, THE PRESIDENT - ELIZABETH H. MITCHELL

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR**, **PREVAILED**.

Joint Order

The following Joint Order:

H.P. 1039

ORDERED, the Senate concurring, that Bill, "Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Topsham," S.P. 509, L.D. 1390, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Review Statutes, Rules and Policies Regarding Mental Retardation, Pervasive Developmental Disorders and Other Cognitive and Developmental Disorders

H.P. 468 L.D. 654

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.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Promote Partnerships between the University of Maine System and the Maine Business Community
H.P. 991 L.D. 1415

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-483)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483)**.

Report **READ**.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding the Prevention and Reporting of Methicillin-resistant Staphylococcus Aureus"

H.P. 713 L.D. 1038

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-498)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-498)**.

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

READ ONCE.

Committee Amendment "A" (H-498) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **TAXATION** on Bill "An Act To Make Minor Substantive Changes to the Tax Laws"

H.P. 980 L.D. 1401

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-482)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-482)**.

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

READ ONCE.

Committee Amendment "A" (H-482) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

ENACTORS

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

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2009-10 and To Make Other Changes Related to the Municipal Cost Components
H.P. 855 L.D. 1235
(H "A" H-453 to C "A" H-422)

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

Emergency Measure

An Act To Facilitate Testing and Demonstration of Renewable Ocean Energy Technology

S.P. 545 L.D. 1465
(C "A" S-249)

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.

Acts

An Act Regarding Indirect Lobbying

H.P. 246 L.D. 310
(C "A" H-208)

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

An Act To Protect the Privacy of Maine Residents under the Driver's License Laws

S.P. 492 L.D. 1357
(S "A" S-247 to C "A" S-215)

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

Senate at Ease.

Senate called to order by the President.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Review and Approval Process of the Comprehensive Land Use Plan" (EMERGENCY)

H.P. 722 L.D. 1047

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-468).**

Signed:

Senator:
BRYANT of Oxford

Representatives:
PIEH of Bremen
SMITH of Monmouth
PERCY of Phippsburg
McCABE of Skowhegan
PRATT of Eddington
KENT of Woolwich
O'BRIEN of Lincolnville
GIFFORD of Lincoln
CRAY of Palmyra

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-469).**

Signed:

Senators:

NUTTING of Androscoggin
SHERMAN of Aroostook

Representative:

EDGECOMB of Caribou

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Regulate Mixed Martial Arts Competitions, Exhibitions and Events"

H.P. 751 L.D. 1089

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-493)**.

Signed:

Senators:

SCHNEIDER of Penobscot
SULLIVAN of York
RECTOR of Knox

Representatives:

SMITH of Monmouth
AUSTIN of Gray
MacDONALD of Boothbay
PRESCOTT of Topsham
HUNT of Buxton
CLEARY of Houlton
MARTIN of Orono
GILES of Belfast
COHEN of Portland

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

Signed:

Representative:

WRIGHT of Berwick

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-493)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-493) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 131: The Maine Federal, State, and Local Accountability Standards, a Major Substantive Rule of the Department of Education (EMERGENCY)

H.P. 817 L.D. 1178

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

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
McFADDEN of Dennysville
JOHNSON of Greenville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-480)**.

Signed:

Representative:

CASAVANT of Biddeford

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

Reports **READ**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Maine Condominium Act Regarding Liens"
H.P. 663 L.D. 961

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-418)**.

Signed:

Senators:

BLISS of Cumberland
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick
CLEARY of Houlton
HILL of York
KRUGER of Thomaston
NASS of Acton
BEAULIEU of Auburn
CROCKETT of Bethel

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-419)**.

Signed:

Senator:

HOBBINS of York

Representatives:

BRYANT of Windham
DILL of Cape Elizabeth
STEVENS of Bangor

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Minority **Ought To Pass as Amended by Committee Amendment "B" (H-419)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)**.

Reports **READ**.

On motion by Senator **BLISS** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-418) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Require Interscholastic Athletic Organizations To Comply with Freedom of Access Laws"
H.P. 909 L.D. 1306

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-470)**.

Signed:

Senators:

BLISS of Cumberland
HOBBINS of York

Representatives:

PRIEST of Brunswick
BRYANT of Windham
DILL of Cape Elizabeth
CLEARY of Houlton
HILL of York
KRUGER of Thomaston
STEVENS of Bangor
NASS of Acton
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

Representative:

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-470)**.

Reports **READ**.

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

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Establish a Wellness Tax Credit"

H.P. 428 L.D. 590

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-423)**.

Signed:

Senator:
NASS of York

Representatives:
PILON of Saco
CHASE of Wells
VALENTINO of Saco
KNIGHT of Livermore Falls
SIROIS of Turner

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

Signed:

Senator:
PERRY of Penobscot

Representatives:
WATSON of Bath
BRYANT of Windham
FLEMINGS of Bar Harbor
CROCKETT of Augusta

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

Reports **READ**.

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

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'd like to speak briefly about this bill. It's a bill to establish a wellness tax credit. Who could argue with that? It sounds great. It gives a little bit of money to small

companies to set up a wellness program. The problem is these are small companies. This is a wellness program which works well with big companies where they can administer it. With small companies we have a choice of either designing it so it's complicated and cumbersome that no one will want to do it or so lax that there's really no way to really tell how the money is being used. It takes some money from the Fund for Healthy Maine. It just does not seem to be the right program at this time and that's why I recommend we pass the Ought Not to Pass Report. Thank you.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just stand. I really don't have anything to add except to note that I urge you to vote against the Ought Not to Pass Report and support the bipartisan Majority. Thank you, Madame President.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I request to ask a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. If we were to vote against the pending motion, what would the cost of this be? Please.

THE PRESIDENT: The Chair would advise that the pending question is acceptance of the Ought Not to Pass Report. We cannot discuss in detail the amendments, but the title of the bill is, An Act to Establish a Wellness Tax Credit. The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I think the number is about \$350,000.

The Chair ordered a Division.

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

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

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Amend Certain Laws Affecting Transportation"
H.P. 110 L.D. 126

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-477)**.

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

MAZUREK of Rockland
HOGAN of Old Orchard Beach
PEOPLES of Westbrook
HARLOW of Portland
CAREY of Lewiston
BROWNE of Vassalboro
THOMAS of Ripley
CEBRA of Naples

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

Signed:

Representative:

THERIAULT of Madawaska

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-477)**.

Reports **READ**.

On motion by Senator **DAMON** of Hancock, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence. **READ ONCE**.

Committee Amendment "A" (H-477) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

Seven members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Establish a Farmer's Rights in an Investigation of Intellectual Property Theft of Genetically Engineered Material"

H.P. 827 L.D. 1202

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-430)**.

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford
SHERMAN of Aroostook

Representatives:

PIEH of Bremen
EDGECOMB of Caribou
GIFFORD of Lincoln
CRAY of Palmyra

Three members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-431)**.

Signed:

Representatives:

PRATT of Eddington
KENT of Woolwich
O'BRIEN of Lincolnville

Three members of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "C" (H-432)**.

Signed:

Representatives:

SMITH of Monmouth
PERCY of Phippsburg
McCABE of Skowhegan

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)**.

Reports **READ**.

On motion by Senator **NUTTING** of Androscoggin, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)** **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-430) **READ** and **ADOPTED**, in concurrence.

Senator **NUTTING** of Androscoggin **OBJECTED** to **SUSPENSION OF THE RULES** for the purpose of giving this Bill its **SECOND READING** at this time.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

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

COMMUNICATIONS

The Following Communication: S.C. 384

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

June 1, 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 Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 455 An Act Regarding Parents' Rights

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

Sincerely,

S/Sen. Lawrence S. Bliss
Senate Chair

S/Rep. Charles R. Priest
House Chair

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

The Following Communication: S.C. 385

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

June 1, 2009

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

Dear President Mitchell and Speaker Pingree:

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

L.D. 1270 Resolve, To Realign Maine's Natural Resource Agencies

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

Sincerely,

S/Sen. Deborah L. Simpson
Senate Chair

S/Rep. Stephen R. Beaudette
House Chair

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator JACKSON for the Committee on **LABOR** on Bill "An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System"

S.P. 474 L.D. 1292

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

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

READ ONCE.

Committee Amendment "A" (S-285) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED.**

Ordered sent down forthwith for concurrence.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (5/26/09) Assigned matter:

SENATE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, To Examine Environmental Effects of the Dual Recovery System for Beverage Containers

S.P. 270 L.D. 733

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-195)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-196)** (4 members)

Tabled - May 26, 2009, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195)** Report

(In Senate, May 26, 2009, Reports **READ**.)

On motion by Senator **SCHNEIDER** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-195) **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-284) to Committee Amendment "A" (S-195) **READ**.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I'm very pleased to report that additional work was done on this particular legislation. We have added some language to give additional strength to this piece of legislation which is a bill that will add a five member working group consisting of the Director of State Planning, the Executive Department or designee, the Commissioner of Agriculture or designee, and the Commissioner of Environmental Protection or designee, to work on a two-year study on the following: recycling rates, carbon footprint, comprehensive recycling program, barriers to comprehensive recycling, alternative models of sustainability, energy and economic efficiencies, the effect of educational programs on recycling rates, the potential role of opportunities for redemption centers and businesses as technology advances in recycling programs, and litter prevention and waste reduction efforts. This is a really terrific compromise that we've worked on. It will come from completely private funds. We wanted to make sure there was as little leeway for conflicts of interest so we developed this working group in order to prevent

that kind of conflict of interest and it will be completely responsible for dealing with funding for the study, distributing it, and finding an appropriate consulting firm to coordinate this issue. I hope you'll support this amendment. I think it's a really good compromise and it's been a great deal of effort on the committee's report. I would also like to thank my colleague, the Senator from Knox, Senator Rector, for working so diligently along with me on this amendment.

On further motion by same Senator, Senate Amendment "A" (S-284) to Committee Amendment "A" (S-195) **ADOPTED**.

Committee Amendment "A" (S-195) as Amended by Senate Amendment "A" (S-284) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195) AS AMENDED BY SENATE AMENDMENT "A" (S-284)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/29/09) Assigned matter:

SENATE REPORTS -from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing Bottle Redemption and To Establish the Department of Agriculture, Food and Rural Resources as the Agent in the State for the Purposes of Bottle Redemption"

S.P. 139 L.D. 397

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-270)** (8 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (S-271)** (3 members)

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

Tabled - May 29, 2009, by Senator **RAYE** of Washington

Pending - motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270)**.

(In Senate, May 29, 2009, Reports **READ**.)

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I would like a few moments to share with you a little bit background on this particular piece of legislation. First, I would like to extend my thanks to my good colleague from York, Senator Sullivan for her tireless advocacy for her constituents and for redemption centers. There were many bottle bills brought forward this session and we worked very hard to try to bring all parties together to reach a compromise on these

pieces of legislation. Frankly, this is not where I had hoped to be since our work, unfortunately, was not fruitful in the end. Although this report does not raise the handling fee to 2¢ as had been suggested by my good colleague from Piscataquis, Senator Smith, it does raise the handling fee for redemption centers to 1¢. This is an issue which has been worked on for many, many years, 11 years, by my good colleague from York, Senator Sullivan. I hope you will support this raise which redemption centers have been waiting for over 20 years for. Thank you very much.

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

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, I urge you to defeat this motion and move to the Minority Report. I would suggest to you that this increase will put Maine as an outlier in the nation. We will be number one in the nation, yet again, on something and it will be in redemption fees that we are paying to our redemption centers. We will be at 4.5¢. That will be the highest in the nation. It is more than twice the rate that is paid in Connecticut and it amounts to an increase in cost to Maine residents of \$9 million a year. That's \$9 million a year in increased costs that will be absorbed by the citizens of the state of Maine. The handling fee was raised by a .5¢ five years ago, and at that time we found that we had a substantial number of new redemption centers open. The result of that was that although the fees went up, the pie was divided among more members and the result was that we still had our redemption centers struggling to survive. I urge you to defeat this motion and move on to the Minority Report. Thank you very much, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, you should be getting a handout right now as I speak. I want to talk for a few minutes about something I've spent better than 11 years on, since I first ran for the other Body. The redemption centers were asked to do a job that the Maine people asked them to do through a citizen's initiative, and that was to find a way to work the bottle bill. Last year on this floor, I heard the statement, "While the redemption centers were never meant to be a business." Please don't tell that to redemption centers. They do a dirty business returning our bottles and doing better things for our environment. While it's true in half truth that five years ago they received a half penny, it was for co-mingling. Co-mingling was designed to allow companies like Coke and Pepsi to work together. Because of all the private things about their businesses, they didn't want to know the market share, they said, "Okay, we'll hire somebody, we'll co-mingle and we'll figure out where the deposit should go according to the percentage of market that you have." Well, that was great. We thought this would be great. Guess what? They then decided to form different size bottles. Take a look at the bottles you have been getting. The different shapes; 12.5 ounces, 18 ounces, the refrigerator pack, and the keg size. All of those now require a separate sorting. As far as the raise that my colleague from Knox County, Senator Rector, talked about, I would tell you that the \$9 million is a fallacy. On top of that, it is not to the consumers. The companies will simply raise their price. I want you to think. How do you take a half penny and pass that on to the consumer?

First, they will take a full penny, and I guarantee it will be more than a penny, and they will tell you, they being the bottle companies, they have to raise the price because of the redemption centers. I defy any of you to go to your redemption center and hear that the people who go there, that take those bottles, would be more than willing to pay a penny because they can't stand stuffing those machines full of dirty, ugly bottles. The redemption center does a dirty job. Every time we increase the minimum wage, and it has been eight times in the last 21 years, their price goes up. How do redemption centers make that money up? Coke and Pepsi are able to simply go out and raise their prices. Remember the redemption centers give out the money before they get it. My redemption center, this past year, had to stop at \$1,600. When they have taken in \$1,600 of bottles, they can no longer give out cash. The cash flow goes out and they don't get it back until they are picked up and 10 days later they get a check in the mail. I'll have you know that in many cases the check is postmarked 10 days later and it's at least two to two-and-a-half weeks before the check comes along. We've also had increases in Workers' Compensation. Redemption centers, which are not meant to be businesses, pay Workers' Comp. Redemption centers, which are not meant to be businesses, have paid increased property taxes. They pay payroll taxes and the federal taxes they need for a business. Oh yes, remember September 11, 2001, P and C went up for everybody. Property and casualty insurance, guess what? They need that insurance. It went up. There has been an increase in supplies; plastic bags are a petroleum product. Price went up. Accounting fees to do all of the work they need to do in order to meet the fed's requirements, the taxes here, and the State requirements. There has been an increase in utilities. Postage has gone up. Let's keep looking at that. They have no way to make a profit, except what was given to them 20 years ago. I defy any of you to be able to increase, in 20 years, your budget, even for your family, and live on a half penny per unit. My redemption center had five people working. They now, because of the cost of things going up, have two. They had to lay three off. There has been no support from the Department. We agreed to everything. The Senator from Penobscot, Senator Schneider worked very hard in difficult times. We made concessions on everything. It is my hope to put two pieces back into this at some time because the one thing on this I thoroughly agree with that the Senator from Knox, Senator Rector passed out is that a moratorium needs to happen. We need to pass this first. Because this is not an emergency, everyone will try to open up a new one and cash in on the big deal and they will go under. I would say, however, if the Department of Agriculture does what they should do, they will not have to register any new and all redemption centers must be registered by the Department of Agriculture. I am going to ask you to support this. I'm going to ask you to go back to your constituents, not the bottle companies, and say, 'Do you think our local redemption centers should have a penny?'. I think they will tell you yes. They will tell you, yes, it is a convenience. The cost of doing business seems to be okay for protecting everybody but somebody who cannot raise any prices. I would ask you to please support this amendment. Thank you, Madame President.

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

Senator **RECTOR**: Thank you, Madame President. Men and women of the Senate, I have a couple of other additions. I won't belabor this terribly long. We have 811 redemption centers licensed in Maine. We require that our bottlers, the initiators of deposit, pick up at every single one of those redemption centers. Once you get your license, we require that pick up occur. The result is we've got trucks going hither and yon, so as much as we think we're improving our carbon footprint, I think we could argue that it presents a problem here in Maine. By contrast, Massachusetts, Vermont and Connecticut combined, have less than one-fourth of the number of redemption centers we have here in Maine. I appreciate that we are a big state, but it seems to me that we are over-redemptioned and that's the reason we have so many struggling redemption centers. We did raise the fee a half cent five years ago when we went to co-mingling. That was an attempt to reduce the number of sorts and allow for redemption centers to operate more efficiently. I agree with the good Senator from York that it's a dirty, it's a challenging job, I think, for a lot of people and it's one we're grateful we do because they certainly keep our highways and roadways clear. One other thing I just want to mention is that if indeed the redemption fee was so terribly important, then I would wonder why are there so many redemption centers that one-day-a-week, several days a week, for large groups, and so on will offer a 6¢ redemption instead of the nickel back? It's because they can afford to forgo a portion of their redemption, the handling fee, because the volume is what is critical in this business. Our question is, how do we get the volume up for those centers? This bill doesn't address this issue and in fact, I think, if enacted we'll expand the number of redemption centers around the state and slice the pie up that much smaller. Thank you.

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

Senator **SMITH**: Thank you, Madame President. I just wanted to rise as the sponsor of one of the original bills on this subject matter this session and in support of the motion that is presently pending. I do so not because I'm a great fan of this system that we've created here in the Legislature years ago to handle these containers, but out of a sense of fairness to the folks this Legislature induced into this business. I think now we can fairly say that it's a regulated business. As a regulated business we, in the State Legislature, have a special responsibility to make sure that those that we have induced into this business are treated fairly and that they can, in fact, make a decent rate of return on their investment. In the electrical business we have a large bureaucracy called the Public Utilities Commission that assures the transmission and distribution companies that they will make a fair rate of return on their investment. In this business, which is another State-created business, there is no such entity and this Legislature is the sole place these folks can come to tell their stories and to get a fair rate of return on their investment. After such a long time, and as a legislator who has not been known to support fees of any sort, I think this is the fair thing to do at this time. I was pleased to be a sponsor of one of the original bills, and I hope you will support the Majority Report. Thank you.

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

Senator **SULLIVAN**: Thank you, Madame President. I just want to correct one thing that was said. 897 redemption stores are not real redemptions. Every store that sells beverages needs to be able to work and take back the bottles. In the case of Biddeford Bottle and Can, they work with 26 stores. They contract with 26 of them so those stores, even though they have the beverages to sell, do not have to take back any bottles. They put a sign up and they say their contract agent is Biddeford Bottle and Can and they do not take back any bottles. The reality is that it is down, even if you count the RVMs in every single grocery store. It is about 500. If you take out the grocery stores and you take up reverse vending machines, RVMs where you put something and you get money back. It is the reverse of what vending machines usually really do. They are not included in this because they don't have the manpower, they don't have the Workers' Comp, they don't have the manual labor, and they have the machines. There are two major companies that do that. This is really for the working men and women doing what we, as Maine voters, asked them to do. I would ask you to please support this. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (S-270). 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 (#141)

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

NAYS: Senators: COURTNEY, DAVIS, HASTINGS, MCCORMICK, MILLS, NASS, RECTOR, WESTON

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270), PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-270) **READ.**

On motion by Senator **RECTOR** of Knox, Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270) **READ.**

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

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, this amendment does several things. It raises the redemption fee not by a penny but by a half penny to 4¢. It limits the number of redemption centers, a piece that I referred to earlier, so that all of the centers that are in place today are grandfathered in place. It allows the Department of Agriculture to promulgate rules around population for future redemption centers, so it sort of secures the market share so if rates go up we're not able to have an abundance of new centers opening and further reducing the pie that I spoke of earlier, that is to say redeeming the same number of beverages in a larger number of centers. It also has a couple of other very important components. It requires that any person who tenders 2,500 beverage containers or more has to supply their name and address information to the redemption center. The purpose of that is to reduce the number of containers coming over our borders and being redeemed and taking money from the redemption system here in Maine that have not had a fee paid into the redemption system here in Maine. We have a problem with that in the border town along the New Hampshire border and also along the Canadian border. This addresses that. It also clarifies the responsibility of the bags and standardizes, through rules from the Department of Agriculture, the bags that are used for the return of those beverages that the redemption centers use. It also exempts the largest containers from the redemption law. That is the very large water containers and so on that are problematic and take up a lot of space at redemption centers and are able to be recycled in other ways. Let's see if I've got all the details. I think that's it. It also requires the Department, who sets up rules for denial of licensees, to have an appeal process. I encourage you to look at Senate Amendment "A" to this bill and support that amendment.

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

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270).

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

Senator **SULLIVAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm going to ask you to support that motion for a number of reasons. As I looked at this amendment, first of all the basic thing is it is the Minority Report with all kinds of more restrictions, protectionism for the big companies. The bag issue alone is something, the redemption centers have had to pay for but it has not gone up like it has now and it will be now in law that they have to pay for every bag. Not a shared cost. That would be fair between the big companies of Coke and Pepsi and beer. This will eat up more than the half penny that is in this amendment. The amendment also says that they are going to require licensing for redemption centers that we already have. There is another piece needs to be added to this. There will be an amendment forthcoming if it passes. This is an insult. It is worse than the Minority Report that you just voted against, with

more restrictions and more protection for big companies and less protection for the redemption centers. It makes no sense. I am extremely disappointed to see this come forward. I would have you know, with the exception of the bags, every single concession in here was one that we had agreed with up to the day of the third work session on this and it was turned down at the last moment. Everything with the exception of bags was agreed upon. It was part of an agreement and it fell apart. Now they take the half penny that was the Minority Report and they put all of these extra concessions that had already been agreed on before. We could have had this with the penny. I come from a background where you go to the table in good faith. I went to the table in good faith. I'm not sure that this has happened. You put the half penny in, which was the Minority Report, and then turn around and add more concessions in is wrong. It's still a half penny with lots of additional restrictions. Thank you, Madame President.

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

Senator **RECTOR:** Thank you, Madame President. Obviously the passion that you're hearing in the voices of all of us indicates the amount of effort that went into this. I've addressed the bottle bills for the entire seven years that I've been in the Legislature, and they've come before us time and again. In fact, the good Senator from York, Senator Sullivan and I worked with a group one evening trying to come to terms on this. I would suggest that what I presented in the amendment are terms that were agreed to by a number of people. We came forward and had all the parties trying to work together to come to some commonality. I think we tried to achieve that here. I would just request that you read carefully. In fact, the protections there are protections for the redemption centers. By limiting the number of redemption centers and grandfathering those that are in, it protects their market share and gives them an opportunity not to have others step in and cause the further erosion of their market.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270). 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 (#142)

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

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

Representatives: EDGECOMB of Caribou GIFFORD of Lincoln CRAY of Palmyra

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator SCHNEIDER of Penobscot to INDEFINITELY POSTPONE Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270), PREVAILED.

Comes from the House with Reports READ and the Bill and accompanying papers INDEFINITELY POSTPONED.

Reports READ.

Committee Amendment "A" (S-270) ADOPTED.

Senator NUTTING of Androscoggin moved to INDEFINITELY POSTPONE the Bill and accompanying papers, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

On motion by Senator RAYE of Washington, TABLED until Later in Today's Session, pending the motion by Senator NUTTING of Androscoggin to INDEFINITELY POSTPONE the Bill and accompanying papers, in concurrence.

Sent down for concurrence.

Off Record Remarks

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

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

REPORTS OF COMMITTEES

REPORTS OF COMMITTEES

House

House

Divided Report

Divided Report

The Majority of the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Increase Access to Nutrition Information"

The Majority of the Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act To Reform the Land Use and Planning Authority within the Unorganized Territories of the State"

H.P. 878 L.D. 1259

H.P. 960 L.D. 1370

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-481).

Reported that the same Ought Not to Pass.

Signed:

Signed:

Senators:

Senators: NUTTING of Androscoggin BRYANT of Oxford

BRANNIGAN of Cumberland MARRACHÉ of Kennebec MILLS of Somerset

Representatives:

Representatives:

PIEH of Bremen SMITH of Monmouth PERCY of Phippsburg McCABE of Skowhegan PRATT of Eddington KENT of Woolwich O'BRIEN of Lincolnville

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

The Minority of the same Committee on the same subject reported that the same Ought To Pass as Amended by Committee Amendment "A" (H-494).

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

Signed:

Signed:

Representatives:

JOY of Crystal LEWIN of Eliot STRANG BURGESS of Cumberland

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-481)**.

Reports **READ**.

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

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

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator SULLIVAN for the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, To Reduce Funding to Maine Clean Election Act Candidates

S.P. 345 L.D. 923

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

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

READ ONCE.

Committee Amendment "A" (S-287) **READ**.

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

Senator **SULLIVAN:** Thank you, Madame President. I would simply tell you that this bill originally was a reduction in 20% in distributions for Clean Elections in the next election. Instead it goes with 5%. It keeps it where it was in 2008. That is all that does. It was a unanimous report. So we have not gotten rid of it. We've not overridden the budget or anything. Because it's a special fund, that's why it's here and we're doing it. It truly is a unanimous report. Thank you.

Committee Amendment "A" (S-287) **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

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

Senator **RECTOR** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

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

On motion by Senator **BARTLETT** of Cumberland, **RECESSED** until 3:00 in the afternoon.

After Recess

Senate called to order by the President.

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

HELD MATTER

Bill "An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles while Intoxicated"

H.P. 495 L.D. 712
(C "A" H-363)

(In House, June 1, 2009, **ADHERED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-363)**.)

(In Senate, June 2, 2009, on motion by Senator **NUTTING** of Androscoggin, **RECEDED** from **ACCEPTANCE** of the Minority **OUGHT NOT TO PASS** Report and **CONCURRED** to **PASSAGE TO BE ENGROSSED AMENDED BY COMMITTEE AMENDMENT "A"** (H-363).)

On motion by Senator **GOODALL** of Sagadahoc, the Senate **RECONSIDERED** whereby it **RECEDED** and **CONCURRED**.

On motion by Senator **PLOWMAN** of Penobscot, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR**.

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

SECOND READERS

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

House As Amended

Bill "An Act To Establish a Farmer's Rights in an Investigation of Intellectual Property Theft of Genetically Engineered Material"
H.P. 827 L.D. 1202
(C "A" H-430)

READ A SECOND TIME.

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

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.

Senate at Ease.

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:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Reduce Income Tax Rates"
S.P. 469 L.D. 1288

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A"** (S-279) (4 members)

Tabled - June 2, 2009, by Senator **RAYE** of Washington

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

(In Senate, June 2, 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 York, Senator Nass.

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm struggling to get this off the ground. The reason I'm speaking in opposition to the Ought Not to Pass Report, and urge that we try to do something about the income tax, will become apparent as long as we are still here because there will be several proposals. This is one of them. It's a straight proposal to reduce the income tax. It has all of the benefits of the proposals you'll hear about in the next few days. This is a straight reducing of the income tax. Obviously it's expensive. Anytime you do this it's expensive, but it does have, as we've talked about in the past, a lot of benefits for the future. Economic benefits, something that other states around us are doing and we need to realize that if we are to grow our economy, these are the kinds of things we need to do. This particular proposal proposes to reduce the income tax rate over three years, starting with a relatively low 1%, so from 8-1/2 to 7-1/2 and then, in the subsequent two years, larger increases to bring the rate down to 4-1/2%. As I said, we're offering this as a straight income tax reduction. As we move forward you're going to see that it gets mixed up with other things and proposals to pay for it. I thought it would be appropriate to make sure we have the opportunity to do this in a straightforward sense. For those who doubt we can pay for this, there again, as with all of my years here, there is no doubt in my mind that this government is big enough to pay for this kind of thing. These are the kind of things we need to do to ensure growth and prosperity in our future. To suggest that we can't pay for them now means we're not willing to deal with our future in a manner that provides for prosperity and growth, in my opinion. Thank you, Madame President.

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

Senator **BLISS:** Thank you, Madame President. I absolutely appreciate the fervor of my good friend, the Senator from York. I have learned a great deal in my short time on the Taxation Committee, where you, in your wisdom, stuck me this year. Premiere among those things that I've learned is in order for the State to continue operating, when you take money away from the State from one pocket, you have to put money back into the State from another pocket because the State does things for people in Maine that aren't otherwise going to be done, like health care, roads, revenue sharing for municipalities, schools, and an array of things that, without State support, will wither and die, and this State will wither and die along with them. Simply to say that this

will foster economic development and everything will be okay, just doesn't work for me. I would love to see the income tax rate reduced to 4-1/2%. I think it's a noble effort. Money to continue the operation of the wheels of government has to come from somewhere and there is no vehicle in this bill that indicates it will come from anywhere. Frankly, that's a killer for me. I encourage my colleagues to vote Ought Not to Pass.

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

Senator **SMITH:** Thank you, Madame President. Members of the Senate, I just couldn't let this occasion go by without making a few remarks about this bill since I am the sponsor of it. As you know, one of the great interests of mine is my Senate district, which I've spoken of several times on the floor of the Senate in the last couple of years, and its need to attract a lot of economic development. It is a formerly highly industrialized rural district that has had paper companies and all kinds of other industrial development in it. In recent years it has found the need to be recapitalized, as I call it, and that has not happened. The reason it doesn't happen in my district, and many of yours, is that Maine now does compete internationally for a finite amount of capital to be deployed worldwide to create jobs wherever it can be best and most efficiently deployed. Once upon a time Maine competed for that capital. It really wasn't such a wide market. It was more of a regional or national market. Because we had resources that went hand-in-hand with the need, we were able to attract this kind of capital. Now it's a worldwide market. Maine needs to make itself competitive. There are a number of ways in which we are not competitive and I have mentioned a couple of those earlier in the session here and I won't get back into those items. Certainly Maine's high marginal tax rate is a prime reason why Maine does not compete. At the beginning of my first term two years ago, there was a Maine Development Foundation meeting at the Oblate Father's Retreat House and a fellow from Dell Computer was the noontime speaker. The first words out of his mouth, and he was here to talk about their worldwide expansion, were that Maine does not compete. It's a sad story that Maine doesn't compete, because we have so much going for us here in this state that we could really be a very vigorously growing state. In the depths of a recession of this magnitude, I think it is time for us to look at where we are going in the future. A bill of this sort is a necessary first step to put Maine back on track and get this economy growing. Without this as a first step, many of the other steps will not follow. I think that in the very near future, Maine is going to see that it is going to be very difficult to climb out of this recession. I remind you once again that even in the bright moments of the last ten years, our economic growth here in Maine was only about one-third of the national average and it is because we have weighted ourselves down with a very high marginal income tax rate and a very large State budget. Just food for thought and I hope you will oppose the pending motion. I would love to have an opportunity to talk further about this bill in the next few days. If you oppose the motion you can bet I'll be here. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I've been waiting for tax reform since I

arrived on the scene here. I guess for the proponents of this piece of legislation, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. Specifically, what exactly would you suggest we cut from the budget to come up with the hundreds of millions of dollars to pay for this income tax reduction? That's what we're really talking about. What specifically would you cut from our budget to come up with this money? Thank you.

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 York, Senator Nass.

Senator **NASS:** Thank you, Madame President. It seems like we're going to repeat this in slow motion. I think I answered the same question a few weeks ago, although I'd be happy to try to do it again. Those of us, as the Senator from Piscataquis, Senator Smith, has indicated, who think that the future depends on a smaller budget now so that we can reduce these rates to let the economy grow will essentially point to the number of State employees that we have compared to our neighboring state with the same population. They will point to class size. They will point to our special education costs and all the things we know we are cost leaders in. They are well documented. They are often discussed. It's just amazing to me that the question keeps coming up. What do we need to do to reduce the costs of State government to make our future brighter, make the possibilities for our future brighter? To me it's obvious and so I offer that, Madame President, as the same answer over again.

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 do, like others, have a sense of déjà vu. I feel like we've had this discussion before. I will say that it's nice that we can all be standing here as Democrats or Republicans, coming into the session with a common goal of lowering the income tax rate. I think that's something that we have all committed to looking at a way to do. The key, however, is to match your reduction in income taxes with cuts in State government. We have a balanced budget requirement that, one way or the other, is going to happen. As I've said before, it's very difficult to stand here on the floor to support a bill, in this case with a \$1 billion price tag over the biennium, without having any idea where that money is going to come from and imagine that somehow our Appropriations Committee, as brilliant and hard working as they are, are going to be able to, in less than two weeks, trim \$1 billion, that's over one-sixth of the State budget, in the next two weeks. Look how long it took us over this session to reduce the current budget \$500 million below the last cycle. We're going to cut the budget \$1 million in two weeks? I will say the same thing I said when we last debated another large tax cut like this, and that is that I offer my hand across the aisle so those who want to work in a partnership to lower our tax rates, and specifically to lower the income tax rate. We need to have a very honest straightforward discussion of exactly what it's going to take to get there, what we're going to give up. Are we going to

give up half of our K-12 education budget? Are we going to slash Health and Human Services? That's the honest discussion we have to have and we have to have that discussion here as a group and part of single package, not simply be passing it on to the Appropriations Committee and imaging that somehow they're going to be able to do what we can't muster the courage to do as a group. I again extend my hand for us to work together. There's still some time left this year, and certainly even more next year, to find constructive ways to lower the tax rate and cut State spending in a responsible way that we all can support. Thank you.

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

Senator **DAVIS:** Thank you, Madame President. Men and women of the Senate, I would cut the Clean Election Fund, all of it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bliss 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 (#143)

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 **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

An Act To Protect the Privacy of Maine Residents under the Driver's License Laws

S.P. 492 L.D. 1357
(S "A" S-247 to C "A" S-215)

Tabled - June 2, 2009, by Senator **RAYE** of Washington

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-215) AS AMENDED BY SENATE AMENDMENT "A" (S-247)** thereto.)

(In House, June 1, 2009, **PASSED TO BE ENACTED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#144)

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

(See action later today.)

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Require Interscholastic Athletic Organizations To Comply with Freedom of Access Laws"

H.P. 909 L.D. 1306

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-470)** (11 members)

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

Tabled - June 2, 2009, by Senator **COURTNEY** of York

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

(In House, June 1, 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-470)**.)

(In Senate, June 2, 2009, Reports **READ**.)

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

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, those of you who have the Committee Report before you can see it was a very one-sided report. I want to explain to you why I oppose the Majority Report and ask you to defeat the motion before you in spite of its one-sidedness. What this bill does is take the Maine Principals' Association, or a little piece of it, and puts it into the Freedom of Access law that is such an important part of our statutory scheme to ensure transparency in government. The Freedom of Access law provides that public proceedings of governmental organizations and the records of the government organizations are open for public inspection but it's intended to cover the people's business and government. Now what happened here was the Maine Principals' Association is not a government. It includes many public school principals and it includes private school principals. Many of its functions deal with just supporting principalships, the concept of, but it's morphed into a group that controls or sets the scheduling for interscholastic athletics. There is no subject probably more controversial or generating more public interest than interscholastic sports. What happened here was, I think it was a year or so ago, the MPA, in its dealing with the overall financial situation that the schools were facing, attempted to shorten the seasons for sports teams, which incurred the wrath and ire of many interested parents and friends of interscholastic sports. Apparently the MPA did not do a very good job of inclusiveness in including and allowing people's input into these events. That was the genesis of this bill. What the bill says is that the committee meetings, subcommittee meetings, and full membership meetings of any association that promote, organize, and regulates statewide interscholastic activities in public schools, or in both public and private schools, are public proceedings. It goes on to say that the records are public records. Then it goes on to limit it because all they were concerned about were interscholastic sports and to say that paragraph only applies to those meetings pertaining to interscholastic sports. So what we've done is we've taken a private organization, albeit substantially publicly funded but not fully publicly funded and substantially made up of public school principals but not entirely made up of public school principals, and carved one little section of it out and said those are public proceedings and those are public records. For the life of me, I can't understand that if we're going to do this, why wouldn't we say that the sections the committees of the MPA that deal with the Maine Jazz Festival and the school drama festivals, why aren't those public proceedings, too? My concern is a misuse of the public access laws. The MPA probably asked for this to some extent and they should have been far more inclusive in their debating on this. I'm afraid we are diluting and weakening the public access law by suggesting that we're going to selectively pick those private groups, private entities, and include them within the definition of public proceedings and public records because we just happen to want to get that information. They're not governmental entities. They're private organizations. The next

bill may be, and I can see us heading down the road, for any organization that receives some public funding, and there are myriads of private organizations that do. There will be an attempt to, by somebody who is disappointed that they weren't able to have access to the meetings or the records of that organization, include those organizations and those meetings within the public records. Rules of the Freedom of Access law, I believe the Freedom of Access law is intended to cover governmental proceedings. We work hard in the Judiciary Committee to ensure it is conducted properly. I hate to see it used for the wrong reason and I do believe this is the wrong reason. I believe we could have handled the MPA under the corporate laws and tailored a law to do that. I think they got the message pretty clearly, Madame President. They sat there and listened to this. I think the MPA realized that they needed to become more inclusive. I think it's a misuse of the Freedom of Access law and for that reason alone I would ask you to vote against the motion before you. Thank you.

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

Senator **BLISS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I absolutely agree with my good friend from Oxford. There is nothing about high school that creates more fervor than athletics. There's nothing that people talk about with more passion than athletics. How much money? How many teams? How many practice days? It is, for many people, the most important part of the high school experience, particularly for the parents of high school students. To say that the Maine Principals' Association is not a public organization, to say that the principals of our public high schools are not dealing with public issues when they meet challenges reality a bit. This is all about dealing with public funds for public institutions and it ought to be done in a public way. I agree with my friend from Oxford that government ought to be open. This is all about increasing the openness of government. This bill came about because two of the youngest members of the other Body came to us with very similar bills asking for increased openness. It is probably true that we should create openness in the Maine high schools for discussions about how much money is going to jazz recitals, for how much money is going to art shows, but the truth is that's not what people are radicalized about. They're in a fervor over issues about high school athletics. So that's what the focus of two bills that were brought to us by the other Body was. That's what we dealt with. I think we made it very clear that this bill does not apply to athletic leagues composed of private schools. This is really only about the Maine Principals' Association and their discussion of athletics. It also excludes discussion of coaches' tenure and eligibility of individual athletes, because those are issues that ought to remain private. For the rest of it, transparency is a good thing and I believe we're doing the right thing. I would ask the Secretary to read the Committee Report.

At the request of Senator **BLISS** of Cumberland, Reports **READ**.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, as the lead co-sponsor of one of these bills, I feel compelled to rise this afternoon and add a few points

onto the record. These bills, unfortunately, have had a long 10-year genesis. A previous speaker said that sure the Maine Principals' Association heard the message and we don't need this bill. Well, I beg to differ. Yes, last year, in a closed meeting, they proposed to shorten the athletic seasons. Four years ago they took the position that cross-country running teams could not go to the New Englands for the New England Championship even if Maine was hosting the New England Championships. We had to put a bill in to force them to allow those cross-country running teams to go to the New Englands. A bill I sponsored 11 years ago was when the Maine Principals' Association was proposing to close the cross-country ski season in the middle of February on time and it was January 20th and we had no snow. The kids were going to have no season at all and the cross-country ski coaches statewide were begging to have a few weeks added on. In a closed meeting 11 years ago, the Maine Principals' Association ruled that no, the season would end on time, snow or no snow. We turned out many athletic teams and the Education Committee at that time told the Maine Principals' Association either they were going to extend the season or the Education Committee was. The Principals' Association did finally extend the season. So these bills, I believe, are very, very much overdue. I alone have an 11 year history with high schools being very frustrated that they can have no input, that the meetings are closed when these types of decisions are being made. So I'd urge you to support the pending motion. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#145)

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

NAYS: Senators: DAVIS, HASTINGS, MCCORMICK, MILLS, NASS, RAYE, RECTOR, ROSEN, SHERMAN, TRAHAN, WESTON

ABSENT: Senator: SIMPSON

23 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-470) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Establish a Wellness Tax Credit"
H.P. 428 L.D. 590

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-423)** (6 members)

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

Tabled - June 2, 2009, by Senator **BARTLETT** of Cumberland

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

(In House, June 1, 2009, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 2, 2009, Reports **READ**.)

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I urge that you defeat the Ought Not to Pass motion so we can go on to pass this. This is a proposal, basically that we've seen in the past that would provide an income tax credit to employers who provide a wellness program, which is defined in the bill, to employees. I think it provides a \$100 credit up to \$2,000 per year for such a program. The unique part of this, this year with this proposal, was that this would be paid for out of the Fund for a Healthy Maine and the cost, I think as we indicated earlier as I recall, was \$350,000 roughly. So that is essentially what the proposal was. I found myself in favor of it and would urge everybody here to vote in opposition to the motion before us. Thank you.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, that's it. 100 bucks per employee up to 2,000 bucks, up to 20 employees to be spent on gym membership, a treadmill, or what have you. For potentially \$2,000 a year, there's no way to put any controls on this and see that it's used in any sensible way. Who would bother? So take some money from a Fund for Healthy Maine. You know it's a great idea. There's just no way to practically make this work, so I would just kill it right here and right now. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry 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 (#146)

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

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

ABSENT: Senator: SIMPSON

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

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

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Reform the Land Use and Planning Authority within the Unorganized Territories of the State"

H.P. 960 L.D. 1370

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-494)** (3 members)

Tabled - June 2, 2009, by Senator **RAYE** of Washington

Pending - motion by Senator **NUTTING** of Androscoggin to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence

(In House, June 2, 2009, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 2, 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 Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I rise just to make a few comments on this bill. This is a piece of legislation that would, in effect, turn the planning functions for the unorganized territory over to the counties. So each county would be responsible for that portion of the unorganized territory that lies within its county. For those of us who believe in local control and that the best decisions are made by the government that is closest to the people, this would be a bill to support. That's what I intend to do. I'll be voting against this motion and urge you to join with me.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise this afternoon to urge you to support the pending motion. As the good Senator from Washington, Senator Raye said, this bill does propose to eliminate LURC and give its duties to the various counties that have LURC jurisdiction in them. Yes, some counties came forward and said that they thought they could do this job, but we heard also from some counties that said they did not think they could do this job. LURC is extremely controversial right now. When we get done debating the other LURC bills, and there's a bunch of them, you'll probably really realize that. We've had issues where LURC, through the Comprehensive Land Use Planning process we've been going through the last years, have been calling landowners. There are special LURC landowners special interest groups and there's a great controversy surrounding the CLUP. I think the majority of the committee felt that eliminating LURC and giving it to the counties, especially some counties that said they weren't ready to assume those duties, was just too much, too quick. The majority of the committee felt that supporting some other bills that are making their way through the Legislature right now is the more appropriate way to go. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Indefinitely Postpone the Bill and accompanying papers. 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 (#147)

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

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

ABSENT: Senator: SIMPSON

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator NUTTING of Androscoggin to INDEFINITELY POSTPONE the Bill and accompanying papers, in concurrence, PREVAILED.

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

HOUSE REPORT - from the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Increase Access to Nutrition Information"

H.P. 878 L.D. 1259

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-481) (10 members)

Minority - Ought Not To Pass (3 members)

Tabled - June 2, 2009, by Senator BARTLETT of Cumberland

Pending - motion by Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence (Roll Call Requested)

(In House, June 2, 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-481).)

(In Senate, June 2, 2009, Reports READ.)

On motion by Senator BARTLETT of Cumberland, TABLED until Later in Today's Session, pending the motion by Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence. (Roll Call Requested)

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

Off Record Remarks

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

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

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

After Recess

Senate called to order by the President.

Off Record Remarks

Senator DIAMOND of Cumberland inquired if the Senate was still in possession of S.P. 492 L.D. 1357. The Chair answered in the affirmative, having been held at the Member's request.

An Act To Protect the Privacy of Maine Residents under the Driver's License Laws

S.P. 492 L.D. 1357 (S "A" S-247 to C "A" S-215)

(In Senate, May 29, 2009, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-215) AS AMENDED BY SENATE AMENDMENT "A" (S-247) thereto.)

(In House, June 1, 2009, PASSED TO BE ENACTED.)

(In Senate, June 2, 2009, FAILED ENACTMENT, in NON-CONCURRENCE.)

On motion by Senator NUTTING of Androscoggin, the Senate RECONSIDERED whereby the Bill FAILED ENACTMENT, in NON-CONCURRENCE.

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

ORDERS OF THE DAY

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

HOUSE REPORT - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Promote Partnerships between the University of Maine System and the Maine Business Community

H.P. 991 L.D. 1415

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-483)**

Tabled - June 2, 2009, by Senator **ALFOND** of Cumberland

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, June 1, 2009, Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483)**.)

(In Senate, June 2, 2009, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-483) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Review and Approval Process of the Comprehensive Land Use Plan" (EMERGENCY)

H.P. 722 L.D. 1047

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-468)** (10 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-469)** (3 members)

Tabled - June 2, 2009, by Senator **MARRACHÉ** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 1, 2009, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)**.)

(In Senate, June 2, 2009, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)** Report, in concurrence.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, the difference between these two reports is really in regards to CLUP, the Comprehensive Land Use Plan, which is very controversial. It's been going on now for three years and it's still not resolved. They're going to go through their third round of public hearings here this Fall. This is supposed to be finished by the beginning of next session in January. The difference between these two reports is whether or not the Ag Committee and the Legislature has a chance to make changes before the CLUP is actually signed by the Governor. The current law reads that LURC prepares it, presents it to the Governor, and the Governor either signs it or not signs it. In discussions with the good Senator from Aroostook, Senator Sherman, the Senator from Oxford, Senator Bryant, myself, and the Department, the Department has assured us that if our Ag Committee has serious problems with the report on the CLUP that will come to us under the Majority Report that they will not simply just try to quickly bypass the Committee and quickly take it to the Governor for his signature. That gives me comfort enough to change my position and to move the Majority Report. I just wanted to put those comments on the record. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I agreed to go along with this on the same lines as the Senator from Androscoggin, Senator Nutting. The Commission has agreed to brief the Committee, the Agriculture Committee, on any kind of revisions they have in the plan. They would bring the rules back to us so we could see those revisions and the impact the revision would have and so we'd have a chance to look at the rulemaking. We will take them at their word. We just want that on the record, though. Trust but verify is the position we're in. Thank you very much.

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-468) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-468)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (5/27/09) Assigned matter:

SENATE REPORTS -from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Conform State Mortgage Laws with Federal Laws" (EMERGENCY)

S.P. 523 L.D. 1439

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-221) (8 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (S-222) (4 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "C" (S-223) (1 member)

Tabled - May 27, 2009, by Senator **BOWMAN** of York

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221)**.

(In Senate, May 27, 2009, Reports **READ**.)

On motion by Senator **BOWMAN** of York, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221) ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-221) **READ**.

On motion by Senator **BOWMAN** of York, Senate Amendment "D" (S-289) to Committee Amendment "A" (S-221) **READ**.

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, L.D. 1439 is titled, "An Act to Conform State Mortgage Laws with Federal Laws." It's known in the vernacular as the predatory lending bill. I was presented this bill relatively late in the session. I took a look at the title and I said this was going to be simple. Nothing of substance in life is ever simple and this is validation of that principle. However, if you work hard enough, there's always a way out of difficulties and problems. Thanks to my IFS Senate colleague across the aisle, who I have the greatest of esteem for, and working with stakeholders and the two superintendents who crafted this bill and have to enforce it, we were able to come up with Senate Amendment "D". What Senate Amendment "D" does is makes congruent Committee Report "A" and Committee Report "B" with one exception, and that's section 9-A MRSA §8-206-I A26, which deals with no harm, no foul. That is Senate Amendment "D" to L.D. 1349 in a nutshell and would urge you to vote for Senate Amendment "D."

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, my concerns with Committee Amendment "A" have been addressed with Senate Amendment "D" and I thank the good Senator from York, Senator Bowman, for bringing it forward. Thank you.

On motion by Senator **BOWMAN** of York, Senate Amendment "D" (S-289) to Committee Amendment "A" (S-221) **ADOPTED**.

Committee Amendment "A" (S-221) as Amended by Senate Amendment "D" (S-289) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221) AS AMENDED BY SENATE AMENDMENT "D" (S-289)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/1/09) Assigned matter:

Bill "An Act Regarding the Operation of County Jails and the State Board of Corrections"

H.P. 844 L.D. 1224
(C "A" H-439)

Tabled - June 1, 2009, by Senator **MILLS** of Somerset

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439)**, in concurrence

(In House, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439)**.)

(In Senate, June 1, 2009, **READ A SECOND TIME**.)

On motion by Senator **MILLS** of Somerset, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-439), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-282) to Committee Amendment "A" (H-439) **READ**.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I wanted to take advantage of this opportunity as the bill passes through the system to point out what I fear to be grotesque discrepancies or unfairness that lurk in this system that we've adopted for the operation of county jails and the State Board of Corrections. As many of you know, Somerset County made what, in retrospect, is a horrible mistake. The voters, by I think a margin of six votes, voted to approve the building of a brand new jail a few years ago. Just as that was approved and the bonds were issued, the Governor decided we would consolidate all of these jail systems into one system. I think at that point it became apparent to many of us that we would be saddled in Somerset County with the amortization costs on a \$30 million bond for 20 years or so. That was bad enough. We're also saddled, for reasons that are very difficult to understand, with a jail that's two or three times bigger than what we need. Even though it's a new jail, the cost of operating this monster, even for the 100 prisoners that Somerset contributes to it, is extraordinary to the point where the ordinary cost of running our jail system in Somerset County, forget about the amortization and the bond cost, are up at around \$105 per citizen in the county. That is 220% more than the average throughout the state

of Maine. We are \$20 per capita higher than Lincoln County, which is the second most expensive county in terms of jail costs. We are right off the charts and we're also one of the poorest counties in the state of Maine. The tax burden of the amortization costs on the bond, which are not included in those figures, added on to the operating costs of a jail that is bigger than we need, is just horrendous. The original scheme was that the jail would be too big, but for purposes of importing prisoners from federal sources and other places, and that would be a way of operating a profit center for half of the jail, thus paying off the bond using the boarded prisoners' revenues. The rest would be left over for operating a relatively efficient institution because of its size. None of that has come to pass. The plan that has come into place through extensive negotiations two years ago resulted in no boarding of prisoners, resulting in leaving us saddled with a jail that's twice as big as it needs to be with costs that are several times more per capita than what a poor county like Somerset County can afford, and the resource that we've made available to the State is truly extraordinary. It's a marvelous jail. It's a jail that would probably swallow up Franklin and Piscataquis, our two adjoining counties, and maybe even the overflow from Kennebec. It is an extraordinary resource to the board that governs this new system. The problem is, even as prisoners are added to it, the burden of the costs will continue to fall very disproportionately on the Somerset County citizens. We were left with one option that was negotiated by one of our county commissioners, and that is to try to set our own operating costs for the coming year, which would be the base level of operating costs that will contribute to the system as a whole. The purpose of this amendment would be to set those costs at about \$900,000 below the number than may be actually required to operate the jail. The reason for that is that this would put Somerset County down to joining with the number two county, Lincoln County, in terms of the costs. It wouldn't bring us down to the State average, but it would bring our operating costs down to a level that matches us up with the next most expensive county, Lincoln County, and otherwise permit the citizens of Somerset County to continue amortizing this enormous debt, which is not part of this system, and contribute this rather extraordinary resource that we have inadvertently made available to the system as a whole. I raise this issue through this amendment and I appreciate your indulgence in my tale of woe. Other counties have been similarly affected by this new system, but Somerset County has been by far the most adversely affected. I wanted to bring that to the attention of this Body and for this reason I offer the amendment. Thank you, Madame President.

Senator **GERZOFSKY** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-282) to Committee Amendment "A" (H-439).

The Chair ordered a Division. 18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **GERZOFSKY** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-282) to Committee Amendment "A" (H-439), **PREVAILED**.

Committee Amendment "A" (H-439) **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439), in concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (6/1/09) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Department of Education To Include the Study of Family and Consumer Science in the System of Learning Results

H.P. 702 L.D. 1027

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-462)** (5 members)

Tabled - June 1, 2009, by Senator **RAYE** of Washington

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

(In House, June 1, 2009, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-462)**.)

(In Senate, June 1, 2009, Reports **READ**.)

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, I rise in opposition to the current motion because I think that teaching family and consumer science is very valuable in our schools. I also have a great appreciation, having served on the Education Committee, of how everybody and his brother and his sister wants to get their pet subject into Learning Results and into the curriculum. I have two children who graduated from Maine schools. One was learning disabled, so I can't fault her for her lack of knowledge. The other one I can. I have a good relationship with my son, by the way. He did not learn these valuable skills while in school. I think that creative schools and creative teachers can find ways to teach these principles, that our children and our children's children will very much need, especially in a financial world like we find ourselves in now. I urge you to support that position.

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

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, the good Senator from York is right. Everybody wants their little particular project to be taught in school. I'm sure he knows, from sitting on the Education Committee, that it's hard sometimes to know where we, as

legislators, should stop and let our local schools take over. We had many bills this session that would have added to Learning Results, that would have added courses and course requirements. You have to remember that this is in the middle of changing our graduation requirements. Next year we will have a bill that will change what we require our students to learn to get a diploma in Maine. We had lots of people there testifying for this bill. Most of them were former home economics teachers or teachers who are now teaching health. They were concerned that their position, home ec, wasn't going to be taught. I came down on the side of our teachers, principals, and superintendents. There are many schools that are teaching consumer finance. JMG. Whenever there's a JMG program in your high school, they are teaching this today. Some of the things that these home ec teachers used to do are being incorporated in health classes, some in business classes, and some in other classes. I you look at Learning Results, and we just revamped Learning Results, this says the next time you look at Learning Results now you must put in, as indicators, recommendations for adding this additional thing. It's not the committee's job to, in detail, list particular courses to be taught. That's what Learning Results was all about. It said we want our students to achieve this and we want our schools to make sure that happens. We, as legislators, are not going to get into the naming of particular things. I would guess if you were to call some of your teachers, some of your principals, you would find that yes indeed this is being taught. If it isn't, it can be. What this bill does, even though it's in a different version than we saw originally, what happens is we get a bill that says we want this to be in Learning Results and when there's not support it says then have a study group that will come back next time and say put this in Learning Results. This afternoon at 1:00 we had hearings for new members coming on to our State Board of Education. The first nominee said one of his issues was we are asking too much of our schools. So it sort of followed with the other nominees that same thread. We have a lot of troubled children who have a lot of needs and our teachers are doing their best to meet those needs. We, as legislators, do have to be careful that we do not strap them to all of these individualized programs that make it difficult to then actually do the Learning Results. So I am going to step back. I'm going to ask you to support the pending motion and let our schools do everything that's in front of them, including now dealing with our consolidation, new graduation requirements coming, and do their best in our classrooms. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, I am going to oppose this. I am opposing this motion because I happen to believe strongly that the things that family consumer sciences teach now are not the old idea of home ec and you had shop, or industrial arts, depending on the age you are and when you went to school. Today we teach things like financial literacy. We have special courses that people come in and teach in a day course and we say they're financial literacy. If you pick up the paper on any day, given part of the problem society has right now, is the untethered college students being given credit cards and they don't understand. It is not unusual. I tried this once as an adult and it did not work. There are students who actually say, 'What do you mean? I have more checks, why don't I have money?' They don't understand what a

checking account is. It's amazing. They've had everything handed to them. They're sent on to school, or into the world, and they don't understand how checks and credit cards or anything else works. We have a bill we'll hear tomorrow on labeling for foods. While I maintain that's really important, but it's really important we begin to teach it to our kids. How do you read a label? What is the percentage of fat that you should have? I was told by my doctor that any snack or anything should never be over 9 grams of fat, period. If it is, it's too much. So we also teach childcare. Babies that they take home. Dolls on computers. Those computers are scheduled. They go off sometimes in the middle of the night. The computer reads a read out. It's called 'Baby Think It Over'. For unwed mothers. It says do you really want this? You're going to find out they interrupt your life and every time you fail to check the computer and do anything, it does like an electrocardiogram. It says you failed that section. I also find budgets. How do you work on a family budget? It doesn't have to be family. I put that budget into my social studies. We can take a trip down the Mississippi as we're doing Manifest Destiny. We get to the Mississippi and we talk about how you're going to have X amount of money. What was it like at that time? What do you think expenses would be now if you were making the trip? Kids don't see that. It has to be taught to them. This is a Resolve. I think it's worthwhile. With all the things we do teach, we're doing studies on if phys ed is enough in the schools and how much your body fat is and all this other stuff to schools. I truly, as a teacher, feel that you could work this in. We're not asking for separate, although I would like it but that's not what this does, Learning Results like visual arts or any of the other things. It says this is what kids need to understand. I think it's worth putting in a Resolve and I would ask you to vote in opposition to the present motion.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, as a Senator in bad need of home ec remedial courses, and we could write a book about that, I would urge you to defeat the pending motion. The Resolve simply asks that, at the table, when you're talking about what Learning Results will be, there should be someone who's certified in teaching these classes. As was said, we're not asking for the whole thing. We're talking about how to integrate into different courses. I went to a Catholic school. I took college prep courses. They didn't teach anything like sewing. They didn't teach cooking. They didn't teach nutrition. You can probably tell all of that. Luckily my English teacher taught us about finances and balancing a checkbook. The accounting teacher made us play Monopoly like it was a budget. That's very difficult by the way. It's real money in Monopoly. It's important that these kids understand what they're actually reading on a label if they're going to read the label. They need to know how to be financially smart. They're not, believe me. I have a 22 year old son. We have something in common, Senator Bowman. We're asking for a seat at the table. It can make a huge difference if you're talking about teaching life skills. I know it can be integrated because of the couple of things that were taught me I got it. The one that I didn't get were the ones that I was never offered, never shown. Everything I do I copy from someone else now, even the bad stuff. So let's be a little bit reasonable here and say let's have somebody at the table that can actually discuss what needs to be

discussed, make recommendations, but they're certainly not going to outweigh all the other people at the table. They are going to do just like you do on your committee. You're going to give advice and it's going to be accepted or rejected. That's about all there is to this Resolve and I'd appreciate it if you defeat the pending motion and go on to accept the Minority Report. Thank you.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, this may seem at first like an insignificant issue, but it really isn't. We are in the midst of an economic and financial crisis of historic proportion. I do not believe it is too much to ask of our schools that they get back to the basics. This is really about getting back to the basics. We're talking about people who are graduating from our schools without fundamental understanding of basic skills, basic financial and life and consumer skills. Balancing a checkbook, understanding debit and credit cards, and understanding nutrition. We have a lot of bills around here trying to get at the whole problem of obesity. This is where our kids can learn to understand basic nutrition. It is a very modest request. The committee report asks only that a working group be brought together, that those certified to teach consumer science be present at the table, and that we talk about it and make recommendations. I think that when you really look at it, that's not too much to ask of our schools considering the times in which we live. So I hope you will join me in opposing the Ought Not to Pass Report so that we can move on to the Minority Report.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I guess I'd like to start out by commending the former Chair of Education for his comments and I appreciate them very much. I also see in the back of the chamber is the sponsor of the bill and the sponsor is my State Representative. When I first saw this bill I really didn't know what to think about it. I said, you know, I thought it was an insignificant piece. Realizing that my State Representative served in the school district as a teacher for over 20 years, for one of the poorest districts in the State, where over half of the children are on free or reduced lunch. Where they don't have the opportunity, many times, of having a mom and a dad, or even the opportunity to get breakfast before they go off to school. Now we heard this is everyone's pet project or this is home ec. This isn't home ec. This is not a pet project. Even the insinuation that it's a pet project is an insult to the people that I represent. The amendment simply asks to take a small step to look at this and how we can integrate it into the curriculum. Schools are expected to do more. We're asking people to do more. Many of them have stepped ahead of the State. They've stepped ahead and they integrated this into their math programs and science. They're way ahead of where this is even proposing. I think we need to shine the light on it and we need to protect the children that don't have the perfect families and that can't protect themselves. Thank you, Madame President.

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

Off Record Remarks

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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Evaluation of Economic Development Programs"

H.P. 1022 L.D. 1468

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-502)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502)**.

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

READ ONCE.

Committee Amendment "A" (H-502) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, 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:

Emergency Measure

An Act Regarding Construction and Excavation near Burial Sites
H.P. 97 L.D. 113
(C "A" H-416)

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 Regulate the Rockweed Harvest in Cobscook Bay
S.P. 109 L.D. 345
(C "A" S-225)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Establish the Maine Commission on Indigent Legal Services
S.P. 423 L.D. 1132
(C "A" S-233)

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

Emergency Measure

An Act To Streamline the Regulatory Process for Commercial Building Construction Projects
H.P. 861 L.D. 1242
(C "A" H-368)

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 Make Permanent the Allowance of Certain Commercial Vehicles between the United States-Canada Border and Certain Points in Maine
S.P. 490 L.D. 1355
(C "A" S-192)

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

Emergency Measure

An Act To Support the Center of Excellence for At-risk Students
S.P. 528 L.D. 1443
(C "A" S-211)

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 Ensure Fair Calculation of Severance Pay for Maine Workers
S.P. 547 L.D. 1469
(C "A" S-231)

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.

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Developmental Services Regional Sites, a Major Substantive Rule of the Department of Education

H.P. 68 L.D. 78
(C "B" H-374)

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 **FINALLY PASSED** 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 28: Notification Provisions for Outdoor Pesticide Applications, a Major Substantive Rule of the Board of Pesticides Control

H.P. 674 L.D. 972
(C "A" H-384)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in the negative, and 32 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.

Emergency Resolve

Resolve, To Direct Action on Health Disparities of the Passamaquoddy Tribe and Washington County

H.P. 848 L.D. 1228
(C "A" H-403)

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

Emergency Resolve

Resolve, To Implement Select Recommendations of the Joint Select Committee on Future Maine Prosperity

H.P. 989 L.D. 1413
(C "A" H-379)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in the negative, and 32 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.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

H.P. 1012 L.D. 1460

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with 1 Senator having voted in the negative, and 32 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.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Matching Funds and Property and Equipment, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices

H.P. 1013 L.D. 1461
(C "A" H-392)

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 **FINALLY PASSED** and having been signed by the President, was 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 Remove the Sales Tax on Certain Watercraft
H.P. 473 L.D. 659
(C "A" H-398)

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

An Act Regarding the Payment of Medicare Part B Premiums for Employees Eligible for Medicare

S.P. 401 L.D. 1083
(C "A" S-217)

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

An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness

H.P. 805 L.D. 1166
(C "A" H-413)

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

An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities

H.P. 1019 L.D. 1464
(C "A" H-364)

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

Resolve

Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State and the Impact of Any Federal Health Care Reform

H.P. 690 L.D. 1002
(C "A" H-353)

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:

Act

An Act To Promote Fairness and Protect Economic Development in Transportation Projects Undertaken by the State

S.P. 294 L.D. 767
(C "A" S-213)

On motion by Senator **DAMON** of Hancock, placed on the **SPECIAL HIGHWAY TABLE**, pending **ENACTMENT**, 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 Amend the Laws Governing the Confidentiality of Correctional Facility Plans

H.P. 52 L.D. 59
(H "A" H-449 to C "A" H-362)

An Act To Clarify Standards by Which All-terrain Vehicles May Be Stopped

H.P. 244 L.D. 308
(C "A" H-354)

An Act To Regulate Foreclosure Negotiators

S.P. 198 L.D. 503
(C "A" S-216)

An Act To Protect Electricity Consumers in Northern Maine

S.P. 223 L.D. 608
(C "A" S-50)

An Act To Amend the Laws Governing Involuntary Hospitalization Procedures

S.P. 224 L.D. 609
(C "A" S-228)

An Act To Reduce Lung Cancer Rates in Maine

H.P. 646 L.D. 943
(C "A" H-365)

An Act To Reverse the Effects of Grant v. Central Maine Power, Inc. on Workers' Compensation

H.P. 649 L.D. 946
(C "A" H-359)

An Act To Establish Annual Reporting for Genetically Engineered Crops

H.P. 667 L.D. 965
(C "A" H-385)

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:

ENACTORS

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

Acts

An Act To Create the Probate and Trust Law Advisory Commission
 H.P. 694 L.D. 1006
 (C "A" H-349)

An Act To Amend the Education Laws Regarding the State Board of Education's Degree-granting Authority, the Telecommunications Education Access Fund and Certain Definitions and Programs
 H.P. 711 L.D. 1036
 (C "A" H-373)

An Act To Promote Economic Development in the Greater Portland Region
 H.P. 729 L.D. 1054
 (C "A" H-378)

An Act To Strengthen Sustainable Long-term Supportive Services for Maine Citizens
 H.P. 745 L.D. 1078
 (C "A" H-351)

An Act To Preserve Government Documents
 S.P. 411 L.D. 1100
 (C "A" S-207)

An Act To Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation
 S.P. 417 L.D. 1126
 (C "A" S-209)

An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings
 H.P. 818 L.D. 1179
 (C "A" H-409)

An Act To Protect the Long-term Viability of Island Lobster Fishing Communities
 H.P. 851 L.D. 1231
 (C "A" H-401)

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:

ENACTORS

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

Acts

An Act To Amend Operating After Suspension Laws by Creating an Infraction Alternative for Certain Kinds of Operating After Suspension
 H.P. 862 L.D. 1243
 (C "A" H-412)

An Act To Implement the Recommendations of the Criminal Law Advisory Commission
 H.P. 894 L.D. 1275
 (C "A" H-376)

An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund
 H.P. 936 L.D. 1332
 (C "A" H-360)

An Act To Exempt from Taxation Biodiesel Fuel Produced for Personal Use
 S.P. 487 L.D. 1352
 (C "A" S-224)

An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams
 H.P. 964 L.D. 1374
 (H "A" H-448)

An Act To Allow Efficient Health Insurance Coverage
 H.P. 976 L.D. 1397
 (C "A" H-393)

An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code
 S.P. 506 L.D. 1403
 (C "A" S-234)

An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws
 S.P. 508 L.D. 1405
 (C "A" S-235)

An Act To Update Terms and Make Changes in Child Care and Transportation Benefits under the Temporary Assistance for Needy Families Program
 H.P. 992 L.D. 1416
 (C "A" H-405)

An Act To Implement Respectful Language Amendments
 H.P. 995 L.D. 1419
 (C "A" H-402)

An Act To Create Economic Development in the State by Modernizing the State's Captive Insurance Laws
 S.P. 520 L.D. 1436
 (C "A" S-220)

An Act to Amend Mercury Standards for Air Emission Sources
 H.P. 1035 L.D. 1482

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:

ENACTORS

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

Resolves

Resolve, Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status

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

Resolve, Regarding the Sale of Certain Real Property in the City of Hallowell

H.P. 623 L.D. 905
(C "A" H-358)

Resolve, Regarding the Classification of Wildlife Management District 2

S.P. 351 L.D. 929
(S "A" S-238 to C "A" S-140)

Resolve, To Understand and Assist in Efforts To Promote Science, Technology, Engineering and Math Education

S.P. 412 L.D. 1101
(C "A" S-208)

Resolve, To Facilitate Training and Education on Dating Violence Prevention

H.P. 760 L.D. 1105
(C "A" H-323)

Resolve, To Review the Adjustments in the School Funding Formula Related to School Administrative Units That Are Eligible for the Minimum State Share of Their Total Allocation

H.P. 845 L.D. 1225
(C "A" H-404)

Resolve, Regarding Low-profit Limited Liability Companies

H.P. 884 L.D. 1265
(C "A" H-410)

Resolve, To Provide a Program Model for Children with Autism Spectrum Disorder

S.P. 461 L.D. 1280
(C "A" S-210)

Resolve, To Study Implementation of Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services

S.P. 493 L.D. 1358
(C "A" S-218)

Resolve, Directing the Department of Labor and the Department of Health and Human Services To Establish a Work Group To Clarify the Working Status of Respite Care and Shared Living Residential Service Providers for Individuals with Developmental Disabilities

S.P. 496 L.D. 1361
(C "A" S-229)

Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets

S.P. 515 L.D. 1431
(C "A" S-230)

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Wednesday, June 3, 2009, at 10:00 in the morning.