

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

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

Pages 1 - 1159

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

In Senate Chamber
Wednesday
June 3, 2009

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

Prayer by Reverend Dr. Alice Z. Anderman, North Yarmouth
Congregational Church.

REVEREND ANDERMAN: Let us pray. We give You thanks, oh God, for this new day and for this Senate and staff and the time, energy, commitment, and expertise they bring to their work. Oh Holy One, grant Your presence among them today as they do the Senate work that is before them. Give them ears to hear one another, voices that speak the truth in love, minds that make sense out of difficult issues, and hearts that reach out to those who they serve. May the words they speak and the actions they take, some of which will be very difficult, help us get through these tough times in our state, nation, and world. Our Senators do not work by themselves. Remind all of us that as citizens of Maine we have the responsibility to work together for the good of our state and that we are called to support those whom we elect to office. We pray for our Maine families today, for those who struggle in this financial crisis, for those whose hearts are heavy, for those who suffer, for those who live with an uncertain future, for those who lead, and for those who follow. When we come to these times when we feel as though our fears and anxieties will overcome us remind us that You are near and that You walk with us. Give wisdom, strength, and courage for the living of these days. Amen.

Reading of the Journal of Tuesday, June 2, 2009.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age"

S.P. 104 L.D. 340
(S "A" S-194)

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

Minority - **Ought to Pass** (3 members)

In Senate, May 28, 2009, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-194)**.

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Senator **BRYANT** of Oxford moved the Senate **RECEDE** and **CONCUR**.

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

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **BRYANT** of Oxford to **RECEDE** and **CONCUR**. (Roll Call Ordered)

Non-Concurrent Matter

Resolve, To Further Regulate the Use of Tanning Booths by Minors (EMERGENCY)

S.P. 137 L.D. 395
(C "A" S-227)

In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227) AS AMENDED BY HOUSE AMENDMENT "A" (H-519)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Provide Representation for Dog Clubs on the Animal Welfare Advisory Council"

S.P. 157 L.D. 454
(C "A" S-243)

In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-243)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-243) AS AMENDED BY HOUSE AMENDMENT "A" (H-501)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill, "An Act To Improve Transportation for Veterans"
H.P. 601 L.D. 870
(C "A" H-342)

In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-342)**, in concurrence.

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **SULLIVAN** of York, the Senate **RECEDED** and **CONCURRED**.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Curriculum Requirements and Standards for Awarding a High School Diploma"
H.P. 929 L.D. 1325

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-512)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-512)**.

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

READ ONCE.

Committee Amendment "A" (H-512) **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 **JUDICIARY** on Bill "An Act To Improve Tribal-State Relations"

H.P. 333 L.D. 445

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-516)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-516)**.

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

READ ONCE.

Committee Amendment "A" (H-516) **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 **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require the Collection of DNA from a Person under Certain Circumstances"
H.P. 551 L.D. 815

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

Signed:

Senators:

GERZOFKY of Cumberland
DAVIS of Cumberland

Representatives:

HASKELL of Portland
HANLEY of Gardiner
LAJOIE of Lewiston
SCHATZ of Blue Hill
PLUMMER of Windham
WHEELER of Kittery
MAGNAN of Stockton Springs

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-495)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

GREELEY of Levant
BURNS of Whiting
SYKES of Harrison

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

Reports **READ**.

Senator **GERZOFKY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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, I'd urge you to oppose the pending motion. I'm hopefully having a letter distributed from a constituent

of mine, Tammy Chamberlain. She came to the Legislature last year and this year, working on the whole issue of DNA. The Minority Report says that if you're a convicted felon, you're going to pay to have your DNA sample tested. I know some will argue that that's a violation of a convicted felon's rights, to have them pay for their own DNA sample to be analyzed. I don't agree with that. In Ms. Chamberlain's case, she was brutally raped. The case went unsolved for years. Then a DNA sample solved her case and made a huge difference in her life. She came last year to the Criminal Justice Committee and testified on a different DNA bill. We have thousands and thousands of DNA samples that are sitting there, not being analyzed, taken from convicted felons. This, I think, in a small way would help erase that backlog of DNA samples and solve some crimes in the meantime. Thank you.

Same Senator requested a Division.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, we have, in the past, made laws for taking DNA. That goes back to the 1990s, 1996 to be exact. It was never really funded. The feds have been paying for part of it but it's a very insecure funding mechanism. This is going to have a \$100,000 plus fiscal note tied to it. We're going to be asking people that are incarcerated to take \$49 to take this DNA sample. These are people that don't have a way to make an income, don't quite often have those funds, so we're going to have to pay for it. When the Maine State Police Computer Crimes Unit was set up, we had the same sort of problem. We looked for funding. We finally found some funding to help us out on that. That was the committee's highest concern with the lab. This all of a sudden sprung up. We're not quite sure why. The Department had been cut dramatically from staff and from resources. They don't have the resources to do this. They don't have the staff to take these samples. They're the ones who are going to be forced to take these samples. If you're convicted of a crime in Maine, and it's a serious felony; rape, pillaging, or plundering, they're going to take your DNA. We already passed that law and they're taking those now. We're passing laws here that have to do with DWI and everything else that's now going to have to have DNA sampling. I don't know where that's relevant. The committee, the overwhelming majority of the committee that have been working on this for years, came to the same conclusion, Ought Not to Pass, and I would hope this Body would do the same. Thank you very much.

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 Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I forgot to mention when I was up before. At the work session we asked the folks from the crime lab what type of priority this was and they said that this issue was their number one priority. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, we already, when people are convicted, make them pay into the victim compensation fund. They're already required to pay child support if it's possible. I truly believe that this is necessary to continue getting the DNA. For instance, in the headlines this week, we found out there is a serial murderer in the Midwest. They've matched his DNA to eight murders. They have no idea who he is. He probably isn't just a murderer. He could just one day decide to hold up a store and when his DNA goes into that databank, then you'll find the guy who murdered at least eight women. I don't have a problem taking the DNA from people if it means that we're going to find someone and prevent them from continuing what they are doing. So it's not just knowing who you have in the DNA database, but hoping that the people that are in the database as unknown will soon become known. That's the goal I'd like to see. I would urge you to oppose the pending motion and go on to make sure we're doing our part, whether it's a crime committed in our state or one of our citizens who commits a minor crime but happens to travel across the United States, committing the heinous crimes. One of these days it's going to match up. I'd hate to be the state that said we don't want to keep collecting DNA. It's well worth it and if the people in prison have another \$49 to pay it will be added on to their fines and it'll be added on to their victim restitution fund charges from the court. So \$49 isn't a lot of money. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I certainly agree with a lot of what the Senator from Penobscot, Senator Plowman just mentioned. I would be in favor of everyone having DNA testing so that we could solve a lot of these very, very serious crimes. As I read the bill, and I could be wrong, somebody might be able to explain to me, it says felons. It doesn't say serious or violent crime felons. One of the things I know to be a felony is an OUI offense. While that's a serious crime, I don't think it rises to the same heights as rape or murder or anything like that. I wouldn't be supportive of having a person, just because they had something like an OUI happen, being lumped into a class of a murderer. While I do agree with what the Senator just said, I would be a lot more supportive of everyone in Maine having to give a DNA sample than to just take people that have committed a crime, but certainly not something as serious as a murder or a rape. So, as I believe and maybe someone can correct me, but as I see it, as I think it is written, I'm not in support of it. I move we go with the Ought Not to Pass Report. Unless someone can convince me otherwise, I don't support having people that are an OUI have to give DNA samples.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I want to say publicly that I do agree with a lot of what the good Senator from Penobscot, Senator Plowman said. I would agree that we wouldn't want serious offenders not to have their DNA taken. We currently take

those DNAs. We currently take DNA from juveniles. We currently take DNA from people that commit heinous crimes. The problem with this bill is we're going to now go back in time, say 20 years, and take DNA from people that have been locked up in the last 20 years. We're going to ask them to pay for it. I have problems with that. When you start looking at some of the laws that we made recently that turned things into felonies. We're asking to take 2,000 samples this year and 4,000 samples next year. Now I wouldn't disagree with somebody that says we should take DNA from infants, but that's not what's the bill in front of us. The bill that's in front of us has to do with having a database now that we can't do the sampling on, that we can't do the reading on, and that we can't get into the courts. Instead we're going to have to fund over \$100,000. I don't know where we're going to come up with the money to do this because if somebody's incarcerated and they have no way of earning any money, we're going to add it to their time, then that's going to keep them in jail longer and cost us even more. So this is, I believe, an unworkable bill. The Majority of the committee thought it was an unworkable bill. I would hope that the people in this chamber would understand that. The Senator from Penobscot, Senator Plowman is exactly right. We don't want these animals, in some cases, not getting their DNA taken, but they're taking them today and they're analyzing them today. That's not what this bill is about. This bill is about much more. It's taking crimes that weren't felonies and turning them into felonies and adding a lot more people to it that we might not want to pay to have on there because it might not be relevant. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky 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 (#148)

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

NAYS: Senators: BOWMAN, COURTNEY, MCCORMICK, MILLS, NASS, NUTTING, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, WESTON

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create a Duty To Report Serious Injuries"

H.P. 877 L.D. 1258

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

Signed:

Senators:

GERZOFSKY of Cumberland
NUTTING of Androscoggin
DAVIS of Cumberland

Representatives:

HASKELL of Portland
HANLEY of Gardiner
LAJOIE of Lewiston
GREELEY of Levant
SCHATZ of Blue Hill
PLUMMER of Windham
WHEELER of Kittery
MAGNAN of Stockton Springs

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-488)**.

Signed:

Representatives:

BURNS of Whiting
SYKES of Harrison

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

Reports **READ**.

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

Senator **COURTNEY** of York requested a Roll Call.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Requested)

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured"

H.P. 883 L.D. 1264

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-490).**

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 "B" (H-491).**

Signed:

Senator:

McCORMICK of Kennebec

Representatives:

FOSSEL of Alna
WEAVER of York
RICHARDSON of Warren

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490).**

Reports **READ.**

Senator **BOWMAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence.

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Clarify the Beano and Bingo Laws as They Apply to Federally Recognized Indian Tribes"

H.P. 371 L.D. 526

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-442).**

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc
PLOWMAN of Penobscot

Representatives:

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

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

Signed:

Representative:

VALENTINO of Saco

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-442).**

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (H-442) **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 **LEGAL AND VETERANS AFFAIRS** on Resolve, To Authorize a Pilot Project on Ranked Choice Voting

H.P. 945 L.D. 1344

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

Signed:

Senators:

GOODALL of Sagadahoc
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
PINKHAM of Lexington Township
VALENTINO of Saco
FITTS of Pittsfield
CAREY of Lewiston
NASS of Acton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-443)**.

Signed:

Senator:

SULLIVAN of York

Representatives:

CORNELL du HOUS of Brunswick
TRINWARD of Waterville
TUTTLE of Sanford
RUSSELL of Portland

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

Reports **READ**.

On motion by Senator **SULLIVAN** of York, Resolve and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on Bill "An Act To Enhance Maine's Electronic Waste Recycling Law" (EMERGENCY)

H.P. 381 L.D. 536

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-499)**.

Signed:

Senators:

GOODALL of Sagadahoc
SIMPSON of Androscoggin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-500)**.

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford
EDGEComb of Caribou
AYOTTE of Caswell

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)**.

Reports **READ**.

Senator **GOODALL** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report, in concurrence.

Divided Report

Eleven members of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders"

H.P. 292 L.D. 385

Reported in Report **"A"** that the same **Ought to Pass as Amended by Committee Amendment "A" (H-474)**.

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

HASKELL of Portland
HANLEY of Gardiner
LAJOIE of Lewiston
GREELEY of Levant
SCHATZ of Blue Hill
PLUMMER of Windham
BURNS of Whiting
WHEELER of Kittery
MAGNAN of Stockton Springs
SYKES of Harrison

One member 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-475)**.

Signed:

Senator:
GERZOFISKY of Cumberland

One member of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**.

Signed:

Senator:
DAVIS of Cumberland

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**.

Reports **READ**.

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

ENACTORS

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

Act

An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay

H.P. 774 L.D. 1119
(C "A" H-375; S "A" S-254)

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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Enact a 5-point Welfare Reform Program"

H.P. 200 L.D. 254

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

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec

Representatives:

PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STUCKEY of Portland
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-513)**.

Signed:

Senator:
MILLS of Somerset

Representatives:

JOY of Crystal
LEWIN of Eliot
STRANG BURGESS of Cumberland

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

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

Reports **READ**.

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

On motion by Senator **COURTNEY** of York, 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 (#149)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFISKY, 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 **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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 **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow a Resort Casino in Oxford County"

The Majority of the Committee on **TAXATION** on Bill "An Act To Prevent and Treat Cancer in Maine by Implementing Critical Portions of the Comprehensive Cancer Program"

H.P. 933 L.D. 1329

H.P. 637 L.D. 919

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

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

Signed:

Signed:

Senators:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc

PERRY of Penobscot
BLISS of Cumberland
NASS of York

Representatives:

Representatives:

CORNELL du HOUX of Brunswick
VALENTINO of Saco
TRINWARD of Waterville
TUTTLE of Sanford
CAREY of Lewiston
RUSSELL of Portland

WATSON of Bath
BRYANT of Windham
LANGLEY of Ellsworth
FLEMINGS of Bar Harbor
CROCKETT of Augusta
PILON of Saco
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 To Pass as Amended by Committee Amendment "A" (H-511)**.

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-510)**.

Signed:

Signed:

Senator:

PLOWMAN of Penobscot

Representative:

Representatives:

BEAULIEU of Auburn
PINKHAM of Lexington Township
FITTS of Pittsfield
NASS of Acton

CHASE of Wells

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

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

Reports **READ**.

Reports **READ**.

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

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

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

REPORTS OF COMMITTEES

**House
Divided Report**

Eight members of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Regarding Legislative Review of Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order To Minimize Off-target Deposition, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)
H.P. 349 L.D. 494

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-508)**.

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford
SHERMAN of Aroostook

Representatives:

PIEH of Bremen
SMITH of Monmouth
PERCY of Phippsburg
McCABE of Skowhegan
CRAY of Palmyra

Three members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass**.

Signed:

Representatives:

PRATT of Eddington
KENT of Woolwich
O'BRIEN of Lincolnville

Two members of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-509)**.

Signed:

Representatives:

EDGECOMB of Caribou
GIFFORD of Lincoln

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508)** READ and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508)**.

Reports **READ**.

On motion by Senator **NUTTING** of Androscoggin, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508)** **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-508) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age"
S.P. 104 L.D. 340
(S "A" S-194)

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

Minority - **Ought to Pass** (3 members)

Tabled - June 3, 2009, by Senator **BARTLETT** of Cumberland

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

(In Senate, May 28, 2009, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-194)**.)

(In House, June 2, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#150)

YEAS: Senators: BLISS, BOWMAN, COURTNEY, HASTINGS, MCCORMICK, MILLS, NASS, NUTTING, RECTOR, SCHNEIDER, SULLIVAN, TRAHAN

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, BRYANT, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, JACKSON, MARRACHE, PERRY, PLOWMAN, RAYE, ROSEN, SHERMAN, SIMPSON, SMITH, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

ABSENT: Senator: HOBBS

12 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRYANT** of Oxford to **RECEDE** and **CONCUR, FAILED**.

Senator **BRYANT** of Oxford moved the Senate **INSIST**.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, before we take this vote I just wanted to make sure that people understand this, because some folks have said to me something different before this vote was cast. I just want to make sure that everyone understands what we're voting on. Previously in this chamber we adopted an amendment that allowed the age of individuals, kids, operating ATVs to drop from 16 to 14. The other Body acted in non-concurrence with us. It came back. The Recede and Concur motion was to adopt what was done in the House of Representatives. We just defeated that. So if we Insist, we will Insist to our current and previous position of dropping the age from 16 down to 14 for youngsters to operate ATVs unaccompanied by an adult.

On motion by Senator **TRAHAN** of Lincoln, 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 Bowman.

Senator **BOWMAN:** Thank you, Madame President. I believe my colleague from across the aisle has the actual data sheet and I cannot find it in my plethora of papers on my desk here. I believe the number of fatalities caused by riders less than 20 years old is that they account for at least 50% of the accidents. So I call upon my colleague, if he has the data sheet, to back that up. I think that's a startling number. We did not have that when we voted a couple of days ago. I think that information needs to be introduced.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I won't take an awful lot of time because obviously the other Body really smoked this yesterday. I don't think those numbers make a whole lot of difference. I think they build the case. What this bill did was to give training to the 14 year olds. It was an attempt to get training for young people

because at 16 they can just ride and they'll never get any training. To say that people under 20, 16 to 20 are having accidents. That may be but it doesn't mean that 14 year olds that were trained properly couldn't turn those statistics around. I actually think those numbers make a better argument for the bill.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I was asked to give you the data and I will do that at this point if that's okay. The total number, this is in 2008, the total number of ATV accidents were 144. The total number of people injured were 148. The total fatalities were five of which fatalities under the age of 18 were two. The total number of accidents 15 years of age and under were 41. Fifteen years of age and under accounted for 28% of the total accidents in 2008. Out of the five fatal accidents in 2008, two of them were 15 years of age and under. There were nine fatal accidents in 2007, one was ten and another was 12. There were nine fatal accidents in 2006, two of them were 15 years of age or under. There were nine fatal accidents in 2005 and the pattern continues.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, those accidents are going to continue to happen, 10 years old or not. Bad things happen to good people and it's unfortunate. I think this actually would help. Like you say, give training on the trails and that would actually help out probably with some of these accidents.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, without reference to the other Body, it does sometimes restore your faith in the bicameral process when you see these bills pass through. I was wondering if this Body, at least, would be willing to entertain a bill that would permit 14 year olds to throw firecrackers from an ATV while drinking beer within a confined hunting preserve.

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

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I just have to get up on this one because of what the previous speaker said. As the good Senator from Aroostook was speaking, my thoughts were on fireworks and the debate that we had on fireworks and the deaths and the injuries and maybe we should just ban ATVs altogether. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Men and women of the Senate, that exact thing did happen for 3-wheelers. They were banned because they were unsafe for children.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bryant to Insist. 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 (#151)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, BRYANT, DAMON, DIAMOND, GERZOFSKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, PERRY, PLOWMAN, RAYE, ROSEN, SCHNEIDER, SHERMAN, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BLISS, BOWMAN, COURTNEY, CRAVEN, DAVIS, HASTINGS, MCCORMICK, MILLS, NASS, NUTTING, RECTOR, SIMPSON, SMITH, TRAHAN, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **BRYANT** of Oxford to **INSIST, PREVAILED.**

Sent down for concurrence.

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

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

ENACTORS

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

Emergency Measure

An Act To Amend Provisions of the Submerged Lands Law
H.P. 926 L.D. 1322
(C "A" H-428)

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 Protect Maine Citizens and Franchised New Motor Vehicle Dealers

S.P. 483 L.D. 1337
(C "A" S-262)

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

Emergency Measure

An Act Regarding the Pay of Tribal Representatives

S.P. 512 L.D. 1428
(C "A" S-256)

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

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Increase of Seed Money to \$150,000, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices
H.P. 1014 L.D. 1462
(C "A" H-445)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with 1 Senator having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Authorizing the Finance Authority of Maine To Oversee an Obligation Owed to the State by Lincoln Paper and Tissue, LLC

S.P. 552 L.D. 1477
(C "A" S-257)

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

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 Raise the Property Tax Exemption for Veterans
H.P. 60 L.D. 71
(C "A" H-424)

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

An Act To Encourage Veterinary Practice in Maine
S.P. 116 L.D. 352
(C "A" S-258)

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

An Act To Reimburse Debra Bilodeau for Her Expenses Incurred in Connection with Her Petition for Appointment as a Foster Parent

H.P. 275 L.D. 368
(C "A" H-347)

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

An Act To Provide a Waiver of the Tuition Remaining after the Application of Federal Department of Veterans Affairs Payments to Veterans Eligible for Benefits under the Post-9/11 Veterans Educational Assistance Act of 2008

H.P. 752 L.D. 1090
(C "A" H-372; H "A" H-421)

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator GOODALL for the Committee on **NATURAL RESOURCES** on Bill "An Act Regarding the Transfer of Licenses for Energy Recovery Facilities" (EMERGENCY)
S.P. 551 L.D. 1476

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-292)**.

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

READ ONCE.

Committee Amendment "A" (S-292) **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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned matter:

Emergency

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)

Tabled - June 2, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In House, June 2, 2009, **PASSED TO BE ENACTED**.)

(In Senate, May 26, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-192)**.)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with 1 Senator 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.

The Chair laid before the Senate the following Tabled and Later (6/2/09) 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 2, 2009, by Senator **ALFOND** of Cumberland

Pending - motion by same Senator 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**.)

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

On further motion by same Senator, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-462) **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 (6/2/09) 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 **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(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, **RECONSIDERED**.)

On motion by Senator **TRAHAN** of Lincoln, 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 (#152)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned matter:

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)

Tabled - June 2, 2009, by Senator **NUTTING** of Androscoggin

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)**, in concurrence

(In House, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)**.)

(In Senate, June 2, 2009, **READ A SECOND TIME**.)

On motion by Senator **NUTTING** of Androscoggin, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-430), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-290) to Committee Amendment "A" (H-430) **READ**.

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

Senator **NUTTING:** Thank you, Madame President. This amendment clarifies something that we thought in the committee

that we had put in concerning best management practices when you have a GMO crop planted next to a non-GMO crop. It does put the words, 'best management practices' in. It also says that these contracts put out by various companies providing farmers with GMO seed, that these contracts must be written in 9-point font. It may seem a little silly, but the very first contracts from these companies, you really did have to have a microscope to read them. The print was so tiny. Although they've corrected that on their own and are using 9-point font and that's what we wanted to put in our statute. 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 concur with the Senate leader in Agriculture. I just would add the rules that are referred to in L.D. 1202 will formalize the best management practices for conventional farmers planting both genetically engineered and non-GMO crops. It will also require organic farmers to comply with the national organic standards and even those farmers who are planting identically observed crops of heirloom varieties. I would also note that over the last 12 years we have grown over 20,000 acres in the state and it's probably the time where we need to make sure that the best management practices are used on both sides.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-290) to Committee Amendment "A" (H-430) **ADOPTED.**

Committee Amendment "A" (H-430) as Amended by Senate Amendment "A" (S-290) thereto, **ADOPTED, in NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430) AS AMENDED BY SENATE AMENDMENT "A" (S-290) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned 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)

Tabled - June 2, 2009, by Senator **PLOWMAN** of Penobscot

Pending - motion by Senator **NUTTING** of Androscoggin to **RECEDE** and **CONCUR**

(In Senate, June 1, 2009, on motion by Senator **GERZOFSKY** of Cumberland, the Minority **OUGHT NOT TO PASS** Report from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY READ** and **ACCEPTED, in NON-CONCURRENCE.**)

(In House, June 1, 2009, that Body **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** and **CONCURRED.** On motion by Senator **GOOLEY** of Franklin, **RECONSIDERED.**)

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, I would encourage you to vote against the pending motion. We've voted on this a number of times and I think some have been confused. Not necessarily confused, but a small misunderstanding. I would encourage you to stay with your original vote on this bill. Thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I guess it shouldn't surprise anybody that I'd urge you to stay with your latest vote on this issue. I'm having distributed a letter from the Secretary of State, Matt Dunlap, on this subject. Our Secretary of State deals with license suspensions and he strongly supports the pending motion to Recede and Concur with the other Body. One argument that I have forgotten to make in the past, and he's reminded me on the subject, was that the wardens at the Department of Inland Fisheries and Wildlife have seen a big increase in drinking and boating. He makes the point in his letter in the next to last paragraph, something I should have made earlier, that if they drink and boat, then of course, in a vast majority of cases, they've got to trailer that boat and drive it home. That is the second dangerous situation that could possibly be happening to the public. I did want to point out that the Secretary of State did want to formally submit this letter to this Body saying that he strongly supports this bill. He also reminded me that in this Amendment, H-363, this allows the judge to take into consideration whether or not an OUI on a snowmobile, recreational vehicle, or a boat could be counted as a second OUI. It doesn't mandate it in every case. That's the way the amendment is worded. It does allow the judge to do so if he or she thinks it's appropriate. So I urge you to support the pending motion. Thank you.

Off Record Remarks

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I do want to rise and ask you to oppose the pending motion. Some of the floor debate that we had

yesterday talked about ATVs going across highways and causing accidents. I can think of a number of things, including loaded trucks, 200,000 pounds that don't have to be registered. The driver doesn't have to have a license to go across a highway. I don't think that's a great argument. I don't hear about a lot of ATVs getting into the roadway and causing accidents. The other thing, the same as I said yesterday, this just seems to be so inconsistent. If you have a 18-foot Old Town Canoe with a two horsepower motor on it meandering up and down the Allagash waterway and you've had a couple of beers, you can be caught for OUI. That's fine. How that relates to driving your vehicle on the highway, I don't really understand. What I don't really like about it is that that same 18-foot canoe, same person having the beer, without the motor, can't be taken for that. It doesn't seem to make any sense to me. If we're going to make this the type of thing where anything on wheels, including roller blades and skateboards, you can't have any drinks on, then let's be consistent. As this is, there's a couple of things that we're talking about that people do, but we're not going to include things like golf carts and other things that can be, I'm sure, just as dangerous. It just doesn't seem to be something that I think makes sense. I mean, the most important thing I would think is if you're on one of these types of equipment and you get caught drinking, it is illegal. They can pull your registration. You can't ride it anymore. To tie it to your driver's license, I don't know if that's a good idea, and I certainly don't support it. So I'd ask you to vote against the pending motion.

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

Senator **PERRY:** Thank you, Madame President. I request permission to pose a question through the Chair to anyone who may answer it.

THE PRESIDENT: The Senator may pose his question.

Senator **PERRY:** Thank you, Madame President. The title is, An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles While Intoxicated. Are we talking about simply a license suspension that goes along with this or are we talking all the other implications that go with an OUI, such as a DEEP course, and potentially counseling, and zero tolerance down the road? Would this go on someone's record the same as an OUI while driving a car and cause potentially repeat offender consequences down the road?

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

Senator **GERZOFSKY:** Thank you, Madame President. To answer that question, it will mean all of those things. It will mean the DEEP program. It will mean all those things. It's going to be handled as any other moving violation as if you were in an automobile.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, yes, I agree with the good Senator from Cumberland, Senator Gerzofsky. This is treated just as seriously as if you've been driving a vehicle, a car or truck. Most of these off-road vehicles now can go 80 to 100 miles an hour and cause a huge amount of damage. Just one technical thing I wanted to add while I'm up, this amendment does strike the title of the bill because the amendment is different than the bill. The new title will be, An Act To Require That Prior OUI Convictions Committed with a Motor Vehicle, Watercraft, Snowmobile or All-terrain Vehicle Are Treated as Previous OUI Convictions for Purposes of Sentencing. That's how it was narrowed down by the bipartisan Majority Report from Criminal Justice. Thank you.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I've been listening to the debate to try to determine whether or not my thoughts on this should be changed. I listened to the issue of wanting to provide an appropriate penalty for somebody who is operating a snowmobile, an ATV, a boat, or other type off-road vehicle while intoxicated. We have a penalty for that. It is the suspension of their ability to continue such operation of such vehicles. I'm trying to find a way where I think that it is appropriate to further penalize such an offender by tying this into something that is entirely unrelated. Oh, possibly it could be related if the boat was trailered or if the snow machine is trailered, or if, if, if. If in fact the operation of that vehicle later on in the day was also performed by a person who is under the influence, then indeed that should be a penalty, and it is a penalty. I cannot bring the both of them together, however. It would be very much for me like penalizing somebody who is operating a snowmobile while impaired by alcohol, and they happen to be a practicing professional in the State that requires licensure, such as a dentist, a doctor, a lawyer, and taking that license as well. It makes no sense to you, it makes no sense to me, and it doesn't, in the proposal before us, tie these together. So, I would urge you to consider that during the course of your vote. Thank you, Madame President.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. A previous speaker troubled me with a statement that previous convictions for drinking while on a snowmobile or an ATV could now be considered. Is this bill actually sort of backdating this so that these will be brought in? That these offenses that occurred before the date of enactment as legislation will be brought before the court as a means for being considered? If someone could answer that question for me, I'd feel a little bit better.

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

Senator NUTTING: Thank you, Madame President. Ladies and gentlemen of the Senate, I believe the answer to that is, yes it can. That's current law. It's been current law for quite awhile. If you have an OUI driving a vehicle, the court has the right to go back and see if you had a previous one five years before. That's been that way for quite a number of years. Also, having spoken twice, if I could request permission to speak again.

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator NUTTING: Thank you, Madame President. I also rise this morning to comment on the good Senator from Hancock, Senator Damon's point about how he thinks this is unrelated. I discussed this at length with the Secretary of State yesterday. In fact, he was here lobbying for this Majority Report. You can lose your license if you don't pay child support. I know that's not related to actually driving a vehicle. Our Secretary of State feels strongly that this is related. This is about driving vehicles while intoxicated that can cause damage to yourself and others. He feels that this is much more related to license suspension than some of the other things you can do to lose your license, namely failure to pay child support and other issues. You can cause, and more and more, unfortunately, Maine residents are causing damage to property, damage to themselves and others by boating, snowmobiling, and ATVing while intoxicated. That's why the Department of Inland Fisheries and Wildlife supported this bill at the public hearing and at the work session. Thank you.

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

Senator PLOWMAN: Thank you, Madame President. Men and women of the Senate, as I read through the amendment, I'm not sure how I feel about a reach back in criminal statutes to bring forward an offense that creates a whole different outcome. You may have someone who was boating or ATVing and received a summons, paid their fine, and then they also had an OUI, and then they have another ATV incident. They are now a habitual offender. You have reached back and pulled forward a conviction that is going to greatly impact persons who have no idea that this is even coming. Frankly, I'm not a lawyer, but I'm not sure if it's constitutional to reach back for a criminal offense and bring it forward for the purposes of sentencing. That might or may not have been discussed in the committee, but I don't see where it's even addressed. I would think very hard about whether you want this to be something that goes forward with notice to people, or that something that is retroactive pulls a criminal offense forward and cases already within the system will be affected. I don't think that that's how the Legislature of the State of Maine should be doing its business. Thank you.

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

Senator GERZOFSKY: Thank you, Madame President. Ladies and gentlemen of the Senate, I believe now the Secretary of State licenses drivers to drive on the public highways. If they think that they want to treat people driving snowmobiles on snowmobile

trails on private property, and if they want to be able to do this to people on ATVs out in the woods, I think they should license drivers of ATVs, snowmobiles, and boats. I think there's a popular song going around about whiskey for my men and a beer for my horses. The next bill we're going to see is drunk driving on a horse out in the North Woods while pulling some logs. I think that this is slippery slope. I've heard that many times in other Bodies, and I've heard it in here also. So, I would like to remind the people in this Body what we're voting on, and I will be voting against this motion. Thank you.

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

Senator GOOLEY: Thank you, Madame President. On this particular issue, I happen to live on a dirt road. I've lived there 42 years. It's a municipal road. It's a farm. Going up and down that road all summertime are all kinds of ATVs and in the wintertime there are all kinds of snowmobiles. Now I know there's a law in the books that says that snowmobiles can travel so many feet on a public road before they have to get off onto the snowmobile trail. So the point can be made that this whole discussion that we're having here, on a statewide basis there is some misuse of snowmobiles and ATVs on public roads. I don't know how much of a problem that is, but it is somewhat, so that adds to the discussion.

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

Senator DAVIS: Thank you, Madame President. Men and women of the Senate, just briefly. I would agree with the Senator from Androscoggin. A pattern of behavior for a large percentage of those who are summoned for operating under the influence or possession of alcohol also have similar things with automobiles and snowmobiles. So I would think that should weigh heavily on your decision to vote. Thank you.

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

Senator JACKSON: Thank you, Madame President. Ladies and gentlemen of the Senate, patterns of behavior. Quite a long time back I use to run a lot of what we called sports up the Allagash, St. John River. People from all over the state and all over New England. It was a vacation for them. They came to get away from it and all that. Many times you would notice a cooler full of beer or whatever that they had brought with them. You know there really wasn't any huge danger. That's one of the things that sometimes people do. I don't think it's a pattern of behavior. I think it's an occasional thing. While there are some people that maybe push that issue too far, I think, I've said again and again, there are already penalties that you can take, take away people's rights to do that type of activity. To take away your driver's license, especially in a state as rural as Maine, for an incident on the waterways when no one actually got hurt or anything, but someone had too much alcohol, which today is three beers, I just think that's excessive. The major accidents that we've seen with these large motor boats came from people that were out-of-state and possibly didn't even have the knowledge of how to operate these things. They certainly, in the court's view, were impaired. I understand the problem with that. This is a huge policy change

that's going to affect a lot of our constituents in the state of Maine that are very good people that haven't actually had an accident but are going to get caught up into this problem. I don't want to say that it's minor, but it's not, certainly not percentage-wise as huge as it's being made out to be today.

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 (#153)

YEAS: Senators: BLISS, BOWMAN, COURTNEY, CRAVEN, DAVIS, GOODALL, HASTINGS, MILLS, NASS, NUTTING, RAYE, ROSEN, SCHNEIDER, SIMPSON, SMITH, WESTON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, BRYANT, DAMON, DIAMOND, GERZOFSKY, GOOLEY, HOBBS, JACKSON, MARRACHE, MCCORMICK, PERRY, PLOWMAN, RECTOR, SHERMAN, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

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

On motion by Senator **GERZOFSKY** of Cumberland, the Senate **ADHERED**.

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned matter:

JOINT ORDER - to Recall L.D. 1390 from the Governor's Desk to the House

H.P. 1039

Tabled - June 2, 2009, by Senator **GOODALL** of Sagadahoc

Pending - **PASSAGE**, in concurrence

(In House, June 1, 2009, **READ** and **PASSED**.)

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

On motion by Senator **GOODALL** of Sagadahoc, the Joint Order was **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow for a Dual Liquor License"

H.P. 681 L.D. 989

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-425)** (11 members)

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

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

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

(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-425)**.)

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

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.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, and thanks to my colleague from Penobscot County for rising faster than I did. This divided report is one of the few that come out of Legal and Veterans Affairs. It's a bill that we've seen before and worked and worked and worked. Honestly it's an animal that you just can't put together and try to anticipate how it's going to be able to work. I did go through, in my mind, the places in my general area that would qualify to do this dual liquor license. I came up with Ledbetter's on outer Hammond Street. It has a full kitchen, just like they ask for. It serves a salad, a lunch and a dessert, just like the bill asks. It has setting for about 25 people. It's one of the busiest places you'll ever see at lunchtime. Getting in and out is hazardous enough. Right now, if you pass this bill, the guy with the salad, his shepherd's pie and his piece of apple pie, can crack a beer and sit in the back and have a good time during his lunch hour. Keep in mind it's not a bar. It's a gas station that had the good sense to try and draw in all the people that come for lunch. I have one right down the street from where we work. Full kitchen, serves everything, has even a private room in the back, not private but set aside, where you can take your lunch and eat. It qualifies for someone to walk through the door and buy a bottle of wine to go home, but they can also take one out back and pour themselves wine while they're having the deal of the day. That's not what we intended for this to be. When we talked about it we

intended it to be for chic wine shops in different parts of the state of Maine where you could come in and buy your wine and you could have a nice meal. So if it could be written that way we would have. I have to tell you there's someone in this Body who knows how hard we tried to do that, Madame President. I just don't think that you can do that without all of the other vendors and small shops being able to take advantage of that. I don't think that that's what we had in mind. You can't do it. There are just some things around here that you can't do and one of my favorite sayings lately is, nothing is impossible if you don't know what you're talking about. We really have talked about this over and over and over again. As much as we want to make things work, some things just can't be done, and still keep in mind the policies that we have adopted through the state of Maine over the years. This is one of them I'm afraid. I would ask you to oppose the Majority Ought to Pass and recognize that today is a day where we say no again to what sounds good, but really can't work to our advantage. 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 rise today not in disagreement with the previous speaker, necessarily. However, I also rise for the small businesses who are trying to make ends meet, especially in the swanky areas of say Old Port, along a marina, or whatever. In fact this case is a constituent. A person across the river from me, a constituent from Saco, who has taken a small wine store. Fancy wine, not what you'd buy any place else, really something that I would not purchase because the price tag would prevent me from purchasing it. So they have totally remodeled, put together a kitchen, a full kitchen, chairs, not a counter bar, chairs, tables, seats with the minimum number we put into the amendment that the Ought to Pass has. An amendment of how many people they have to be able to seat. The fact that the person who sells something in this store, again wine or whatever, would be not able to serve the same people at the table. It's a way to promote their product, their high priced wine. They also, during the Summer, have created an outside café in downtown Saco. It's gated in. Not to keep people out necessarily, but it sets it aside. It has the umbrellas. It's an outside patio. This law also says that the community has to allow it according to their records. The dual license means you have the right to sell it to take away from the premises and the right to consume it. We raised that price because it's worth more. It is income benefit and it simply says, here we are. These people are trying to make a living. Once again we're preventing people from trying to keep the economy going. If you look around at the places that want to do this, I don't think a gas station is going to want to pass the new inspection for the health services. I don't think they want to hire separate people to be wait staff and cooks. I don't think they want to do a lot of the things we put in. Most important in this amendment, it says nothing can happen without the approval of the local community. This is true local decision. So the local community okays it, then they have to get two different licenses, one from health and safety inspection, they have to have separate bathrooms, they have to have all kinds of things, and the restrictions are there. So I saw this as a way of helping people try to survive and taking in what happens to be our number one engine driver right now, which is our tourists. We did work this hard and we changed this amendment over and over. The good

Senator from Penobscot is right, we just disagree. I think my view would be that the difficult we do immediately, the impossible just takes us a little longer. I think we took a little longer on this than we really wanted to. I think it came out with something that allows it to go back to the local community and decide if this fits into their view of what their community should look like. 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 opposition to the pending motion. At the same time I agree with the good Senator from York and the good Senator from Penobscot on the intent of the bill to try to allow certain types of venues, establishments, to have a dual liquor license. However, this bill, as amended right now, totally turns upside down our policy on allowing on-premise and off-premise liquor licenses. Currently under Title 28, you have a series of establishments. They're defined, bed and breakfasts, lounges, Class A restaurants, and so forth. This is just one blanket license. What it does, I just want to take a second and explain, because there's some questions I know within my caucus. It allows someone that sells off-premise to now start selling on-premise, as long as they have 16 seats, and as long as they only have one restroom. This is a change in law. Currently, any on-premise facility that would have liquor would have two bathrooms. You'd have to have a combined stock of beer and wine of 35,000. That will capture many of your large convenience stores, especially many of those in rural Maine that serve dual functions of convenience as well as restaurants. The beverage must be accompanied by a meal prior to 8 o'clock. Excuse me, the beer and wine must be served along with a meal by 8 o'clock. A critical component of this amendment, which I oppose, is the amendment will require two employees be present. It's not the point that there be two employees, but it would change the law. They'd be two employees at least 18 years old. In theory you have two people under age 21 being responsible for serving on-premise beer and wine. The current law requires a supervisor of over 21 to be present. The reality is that this situation will provide some of these rural stores to be able to, if they have a full kitchen so you can get a pizza and a beer, and also sell a 6-pack of beer or wine to go. In addition to that, it could have unintended consequences. Some of your large big box stores have a full kitchen. They have a cafeteria. They have food and so forth. Those stores could potentially start selling beer and wine. So that's why I oppose this. Is there a way to potentially allow these stores that were defined earlier, these swanky stores, to do this? Potentially yes. However, under current law if they were to have a division, in essence if you have one side of the store selling off-premise and then there was a wall and a door, and have a second store, in essence, a second storefront that had a meal and provided alcohol, in terms of pouring it out, under the current law someone over 21 being present, then you could do this. Unfortunately, we just can't do it with this amendment. This would have many unintended consequences, as the good Senator from Penobscot indicated, and I would encourage you to oppose this motion.

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

Senator **SULLIVAN**: Thank you, Madame President. Men and women of the Senate, just one or two quick items. First of all, I go back to the local control. They decide if you get a license to have a bar or anything there. It is not up to the State of Maine. More importantly, I would remind you that this same Body, and the Body down the hallway, only two or three weeks ago, time goes so quickly when we're having fun, I can't remember exactly how long ago, we turned everything over again to allow growlers, which are big bottles of beer from the microbreweries. You can go in, sit down, truly sit at the bar. As long as you buy your growler and it's unopened, your sales slip gives you the time that you bought it before, I forget if it's nine or ten we decided on, you can walk out of the bar when it's time to go home, pick up that bottle and walk to your car. Who's to say they aren't going to crack that bottle of beer when they're done. What is the difference? We change policy all the time. This is about businesspeople, trying to take advantage of a very short season, that offers a full meal, not just a pizza oven, but offers meals. Luncheon time, that's why it's closed at 8 o'clock. People coming in off the beach. They want to sit down. They want to have a nice meal and a glass of wine. I just don't see it. So talk to me about changing policy. We just did it on the growler bill, which I supported to help out Maine microbreweries out. It's important. So I think we have to begin to look at the fact that there are companies here, there are businesses here, that really do want to try to make it work and are trying everything to survive. If we talk about policy for one then let's make sure we talk about policy for another group. It can't be separate to pick and choose which groups we're going to expect to work this out. Many of your wine stores are right now offering sandwiches. Think about what it would be like to take a small Maine winery and allow them to serve their wine before people spend \$26 for a bottle of wine. I'm told people do spend that much for wine. So that's all this does. They're not buying the bottle of wine and cracking it open to use. It has to be served. It is not the wine that you are buying in this particular store in Saco, buying the wine and then taking it to your seat and opening it up. No, you're trying the wine with the idea that, hopefully, that you'll buy the bottle because you enjoyed it so. Thank you very much.

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

Senator **ALFOND**: Thank you, Madame President. Ladies and gentlemen of the Senate, I rise also to oppose this motion. I find it unique because a lot of times we talk about bills and we don't know what the future might bring. We always kind of say, well, we don't know what the future might bring. Well, I think in this case I might have a little sense of what the future might bring. Many of you know, or don't know, I went to school in New Orleans. I went to school in Louisiana. A great state and a great city. However, let me just give you a picture of a couple of things I saw in New Orleans. We go into gas stations in New Orleans, there's forties on ice right as you walk in. They had a full kitchen. They served meals. They had seats. I'm not sure that's where Maine wants to go. They also have drive-thru daiquiri bars. Wow, that sounds like an interesting concept. I'm not sure that's where Maine wants to go. I think this is a big policy change. I understand that the Committee tried their hardest to try and come up with a solution, but I don't think this is where Maine wants to go. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Sullivan 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 (#154)

YEAS: Senators: BARTLETT, BRYANT, DAMON, DIAMOND, HOBBS, JACKSON, NUTTING, RAYE, ROSEN, SULLIVAN, WESTON

NAYS: Senators: ALFOND, BLISS, BOWMAN, BRANNIGAN, COURTNEY, CRAVEN, DAVIS, GERZOFSKY, GOODALL, GOOLEY, HASTINGS, MARRACHE, MCCORMICK, MILLS, NASS, PERRY, PLOWMAN, RECTOR, SCHNEIDER, SHERMAN, SIMPSON, SMITH, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

Bill "An Act To Repeal the Requirement That Alien Big Game Hunters Be Accompanied by Guides Licensed by the State"
H.P. 199 L.D. 253
(C "A" H-396)

Tabled - June 1, 2009, by Senator **JACKSON** of Aroostook

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-396)**, in concurrence

(In House, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-396)**.)

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

PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

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

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

ENACTORS

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

Acts

- An Act To Protect the Right To Use Solar Energy
H.P. 62 L.D. 73
(C "A" H-370)
- An Act To Expand Access to Oral Health Care
H.P. 188 L.D. 234
(C "A" H-433)
- An Act To Provide Fiscal Information for Citizen Initiatives
H.P. 189 L.D. 235
(C "A" H-435)
- An Act To Amend the Laws Concerning Licensure Qualifications of Independent Practice Dental Hygienists
H.P. 309 L.D. 421
(C "A" H-326)
- An Act To Require State-owned Solid Waste Disposal Facilities To Demonstrate a Public Benefit
H.P. 518 L.D. 759
- An Act to Enhance Fund-raising Opportunities by Certain Nonprofit Organizations
H.P. 567 L.D. 831
(H "A" H-450 to C "A" H-389)
- An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety
H.P. 633 L.D. 915
(C "A" H-357)

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 Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine
H.P. 491 L.D. 708
(C "A" H-386)

On motion by Senator **BRYANT** of Oxford, **TABLED** until Later in Today's Session, 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 Improve the Use of Information Regarding Sex Offenders
S.P. 429 L.D. 1157
(C "A" S-264)
- An Act Relating to Industrial Hemp
H.P. 798 L.D. 1159
(C "A" H-356)
- An Act To Repeal Inactive Boards and Commissions
H.P. 873 L.D. 1254
(C "A" H-328; H "A" H-331)
- An Act To Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative
H.P. 953 L.D. 1363
(C "A" H-407; H "A" H-436)
- An Act To Enact the Maine Uniform Power of Attorney Act
S.P. 507 L.D. 1404
(C "A" S-240)
- An Act To Transfer the Seed Potato Board to the Maine Potato Board
H.P. 982 L.D. 1406
(C "A" H-441)

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 Improve the Maine Clean Election Act
S.P. 445 L.D. 1197
(S "A" S-246 to C "A" S-214)

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, 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 Sentinel Events Reporting Laws To Reduce Medical Errors and Improve Patient Safety

S.P. 519 L.D. 1435
(C "A" S-248)

An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices

S.P. 536 L.D. 1451
(C "A" S-242)

An Act To Modify Child Support Enforcement Procedures and Requirements

S.P. 543 L.D. 1459
(C "A" S-241)

An Act Concerning Debarment from Contracts with the Department of Environmental Protection

S.P. 548 L.D. 1471
(C "A" S-239)

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:

Resolve

Resolve, Authorizing the Joint Standing Committee on Legal and Veterans Affairs To Report Out Legislation Regarding the Expansion of Slot Machine and Casino-style Gambling

H.P. 378 L.D. 533
(C "A" H-391)

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

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:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow a Resort Casino in Oxford County"

H.P. 933 L.D. 1329

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-511)** (5 members)

Tabled - June 3, 2009, by Senator **COURTNEY** of York

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

(In House, June 3, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 3, 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 briefly just to say that I will be supporting the pending motion, the Majority Ought Not to Pass Report. As many of you know who have served in this Body in the past, I have long been an advocate for the work of the Passamaquoddy tribe to bring a racino to Washington County. We went out to a referendum, went out to the people of Maine, and albeit narrowly, it was defeated. Likewise, there was a referendum for a full-fledged casino in Oxford County that went out to referendum and was defeated. I believe passage of this bill would do a great disservice to our Native Americans who have labored for 15 or 16 years to bring their proposal to fruition. For the Legislature to now circumvent the referendum that was defeated by the people, and to not afford the same consideration to our Native American neighbors, and to my county of Washington, would be patently unfair. So I will be voting in support of the Majority Ought Not to Pass Report.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Sullivan 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 (#155)

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

NAYS: Senators: BRYANT, GOOLEY, HASTINGS, JACKSON, NASS, ROSEN, WESTON

ABSENT: Senator: HOBBS

27 Senators having voted in the affirmative and 7 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

An Act To Improve the Maine Clean Election Act
S.P. 445 L.D. 1197
(S "A" S-246 to C "A" S-214)

Tabled - June 3, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENT "A" (S-246)** thereto.)

(In House, June 3, 2009, **PASSED TO BE ENACTED**.)

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

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

Senator **BRYANT** of Oxford was granted unanimous consent to address the Senate off the Record.

Senator **GOOLEY** of Franklin was granted unanimous consent to address the Senate off the Record.

Senator **JACKSON** of Aroostook was granted unanimous consent to address the Senate off the Record.

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

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

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

On motion by Senator **BARTLETT** of Cumberland, **RECESSED** until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

The Chair removed from the **SPECIAL STUDY TABLE** the following:

Emergency

Resolve, Directing the ConnectME Authority To Create the Broadband Strategy Council

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

Tabled - May 19, 2009, by Senator **BARTLETT** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 13, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, May 18, 2009, **FINALLY PASSED**.)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 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.

Off Record Remarks

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

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

An Act To Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine
H.P. 491 L.D. 708
(C "A" H-386)

Tabled - June 3, 2009, by Senator **BRYANT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, June 3, 2009, **PASSED TO BE ENACTED**.)

Senator **BRYANT** of Oxford requested a Division.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, this is a bill that I was a little bit late one morning and it got past us and into Second Reading and moved on and has come back. I did want to, so for the record, put a few thought processes into the moratorium on genetically engineered products. What this bill attempts to do is put a three-year moratorium on any R & D or any new advances. When you do that you have a number of things that happen. One message is, in fact, that all your R & D money that you're spending, all the new products and all the new thinking and the technology, doesn't come your way. So that's the main reason why I opposed this in committee and continue to oppose it. If we're going to spend lots of money trying to do an R & D, if we're going to spend lots of money trying to get some of the best thinkers here and create new products, and then put a moratorium on it is not the way to go. The feds have rules. We could put some other rules around it if people were uncomfortable about how far we could go with it. To put a moratorium on it, I think hurts the state of Maine. So I oppose 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 urge you to support Enactment of this bill. This is a 10 to 3 bipartisan report from the Agriculture, Conservation and Forestry Committee. This is a three-year moratorium on the open air production of genetically engineered pharmaceutical crops in Maine. This still allows research to be done in a green house type of setting. The reason that 10 members of the committee voted to have a three-year moratorium on this bill was because we read the newly released report from the Office of Inspector General that said that our open air regulatory framework for these types of products was totally

inadequate for preventing contamination of non-GMO crops. They're looking at reforming the federal regulations on this product now. We felt that it was best to be cautious here and to wait on the open air production until the federal government, hopefully, comes up with some better rules to protect crops that are non-GMO from being contaminated. Now way back in the 1980s and 1990s, this state was very cautious about how we handled the whole synthetic growth hormone issue in milk. It served our industry well. In fact that's spread now to be nationwide. I'd urge you to support the pending motion. Let's be cautious about this. This still does allow work to be done in a greenhouse type of setting. 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 happen to agree with the Senator. I originally voted for this. If you see the report, I'm on the Majority Report. At the time I was running back and forth, no excuse, I was running back and forth between there and Utilities. I thought we had discussed a six-month moratorium. Somehow that turned into a three and that's as I say, my bad, if you will. You have a handout on your desks, and I'm sure gone away a lot of the stuff we get on our desks. It talks about Massachusetts' billion dollar industry, ten-year biotech development program. If we put it through a proposed three-year moratorium, we're putting us 13 years behind the rest of the world. They talk about what's taking place in Great Britain, a \$12 billion industry looking out to be a \$350 billion. It isn't like this hasn't been done in the world, and is not being done. In the United States, there's pharmaceutical industry and value-added protein, Iowa State University with corn, Kentucky bio-processing with tobacco. Whether you like that one or not, there's a virus involved. The University of Minnesota with corn, rice and safflower, Purdue University, the University of Washington, Iowa State University again on maize, Washington State University with barley, field peas, rice, and on and on and on. So it's not like this is something new and we're going down a pathway that's not been well-worn in other states. I would oppose Enactment and hope to kill this thing, frankly.

On motion by Senator **NUTTING** of Androscoggin, 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 **ENACTMENT**, in concurrence. (Roll Call Ordered)

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

An Act To Improve the Maine Clean Election Act
S.P. 445 L.D. 1197
(S "A" S-246 to C "A" S-214)

Tabled - June 3, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENT "A" (S-246)** thereto.)

(In House, June 3, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENT "A" (S-246)** thereto.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-214) as Amended by Senate Amendment "A" (S-246) thereto.

On further motion by same Senator, Senate Amendment "B" (S-291) to Committee Amendment "A" (S-214) **READ.**

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, this is a very simple motion and it will take me two sentences. When we changed the qualifying date for Clean Elections, we chose April 20th as a set date. Unfortunately, as ironic as it is, April 20th is scheduled to be a shutdown day, so we have changed the amendment to April 20th or the next business day to take care of that. That's all this amendment does. Thank you.

On motion by same Senator, Senate Amendment "B" (S-291) to Committee Amendment "A" (S-214) **ADOPTED.**

Committee Amendment "A" (S-214) as Amended by Senate Amendments "A" (S-246) and "B" (S-291) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-214) AS AMENDED BY SENATE AMENDMENTS "A" (S-246) AND "B" (S-291) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Clarifying the Manner in Which a Person's Alcohol Level Is Determined under Maine Law"

S.P. 532 L.D. 1447
(C "A" S-202)

In Senate, May 27, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-202).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-202) AS AMENDED BY HOUSE AMENDMENT "A" (H-521)** thereto, in **NON-CONCURRENCE.**

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

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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002" (EMERGENCY)

H.P. 974 L.D. 1395

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-496).**

Signed:

Senator:
BRANNIGAN of Cumberland

Representatives:
PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
JOY of Crystal
CAMPBELL of Newfield
LEWIN of Eliot
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-497).**

Signed:

Senators:
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

SANBORN of Gorham
STRANG BURGESS of Cumberland
EVES of North Berwick

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought To Pass as Amended by Committee Amendment "B" (H-497)** Report.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-496)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-496)**.

Reports **READ**.

On motion by Senator **BRANNIGAN** of Cumberland, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-497)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "B" (H-497) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-497)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 386

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

June 2, 2009

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Jeffrey A. Vermette of Windham, for appointment to the State Board of Education.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Alfond of Cumberland, Weston of Waldo
	Representatives	10	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston

NAYS 0

ABSENT 1 Sen. Schneider of Penobscot

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jeffrey A. Vermette of Windham, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and **ORDERED PLACED ON FILE**.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#156)

YEAS: Senators: None

NAYS: 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

Representatives 10 Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston

NAYS 0

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Jeffrey A. Vermette** of Windham for appointment to the State Board of Education was **CONFIRMED**.

ABSENT 1 Sen. Schneider of Penobscot

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Linda A. Doyle of Yarmouth, for appointment to the State Board of Education be confirmed.

The Secretary has so informed the Speaker of the House of Representatives.

Signed,

S/Justin L. Alfond
Senate Chair

The Following Communication: S.C. 387

S/Patricia B. Sutherland
House Chair

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

READ and ORDERED PLACED ON FILE.

June 2, 2009

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

Dear Madame President:

The Doorkeepers secured the Chamber.

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Linda A. Doyle of Yarmouth, for appointment to the State Board of Education.

The Secretary opened the vote.

ROLL CALL (#157)

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators: None

YEAS Senators 2 Alfond of Cumberland,
Weston of Waldo

NAYS: 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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Linda A. Doyle** of Yarmouth for appointment to the State Board of Education was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 388

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

June 2, 2009

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Andrea Levinsky of Portland, for appointment to the State Board of Education.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	1	Alfond of Cumberland
	Representatives	10	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		2	Sen. Schneider of Penobscot, Sen. Weston of Waldo

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Andrea Levinsky of Portland, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#158)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFISKY, 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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Andrea Levinsky** of Portland for appointment to the State Board of Education was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 389

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

June 2, 2009

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Education and Cultural Affairs has had under consideration the nomination of Steven M. Pound of Little Moose Township, for appointment to the State Board of Education.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	1	Alfond of Cumberland
	Representatives	10	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		2	Sen. Schneider of Penobscot, Sen. Weston of Waldo

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Steven M. Pound of Little Moose Township, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#159)

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFOSKY, 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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Steven M. Pound** of Little Moose Township for appointment to the State Board of Education was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders"

H.P. 292 L.D. 385

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-474)** (11 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-475)** (1 member)

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

Tabled - June 3, 2009, by Senator **GERZOFISKY** of Cumberland

Pending - **ACCEPTANCE OF ANY REPORT**

(In House, June 2, 2009, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**.)

(In Senate, June 3, 2009, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**, in concurrence.

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

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, this report affects my district quite a bit and I have some real concerns about it. Unfortunately I'm fumbling through, to get to my notes on the report. It appears that this report, and please feel free to correct me if I'm wrong, creates a setback requirement from schools, where sex offenders may live, of 750 feet. In my district, in the towns of Lyman and Waterboro, they already have an ordinance that is at 2,500 feet. This bill will preempt their ordinance. It will tell the people in my district, in my towns, that this is not permissible. It tells them that the Legislature knows better. I think that this really concerns me because these rule areas in Lyman and Waterboro are very, very different from some of the more urban areas like Portland. I don't think that this report really takes into account the different demographics across the state. So, with that I would encourage you and request that you vote Ought Not to Pass and vote against the pending motion and move Ought Not to Pass. Thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I urge you to support the pending motion. I think what the Senator from York, Senator Courtney's

point is really why the vast majority of the committee, in a bipartisan way, supported this report. Having each community with a different set of rules makes it almost impossible for the State to try to place these people with some place to live. The 750 feet was a compromise. It was worked out in committee after more than one work session, to have some consistency from community to community, so that the State, the Department of Corrections, and others has some consistency in helping to find a place for these folks to live. We need to know where these people live. To have some communities at 2,500 feet, you almost drive these folks to live under a bridge somewhere and then you don't know where they are. It's better, the Department of Corrections pointed out, to know where they're living and to have at least some distance from public and private elementary, middle or secondary schools. So I urge you to support the pending motion. Thank you.

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

Senator **DAVIS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I voted against L.D. 385 for the following reasons. I thought the towns should have the right to be able to regulate their problems locally. I co-sponsored a bill that Chief Chitwood of Portland wanted sponsored. I gladly co-sponsored it because he didn't have control of where sex offenders live. Some of these people are very dangerous people. Not all, but some are very dangerous people. So I plan to vote against this. I don't think at this time that this is necessary and the courts are going to render a decision soon. I think we really should wait until we see what the courts will do. I don't think it's the time for this bill. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President. Ladies and gentlemen of the Senate, just a couple of brief comments. The reason the local communities had to act is because the State wouldn't act, back two years ago and four years ago. The local communities were dealing with this right at their doorstep and had to act immediately. They did go through a process where they looked at the legal protections and made sure they could find an ordinance that would work, and that would withstand a challenge. The process of how this happened is probably been what's most troubling. I understand that there was a working group out of the committee. I'm not completely familiar with it. I was unaware of it until I found out about it after. I think I read in the Maine Municipal Association that one of the representatives who represents both Lyman and Waterboro was on this working group and was working to come up with a compromise. When I called home, he hadn't even been in communication with the local officials. So I really am concerned about this. I'm concerned about the State preempting these local ordinances. These people live there every day. They have to deal with the consequences of this decision. I think that this one needs a little bit more work. If we're going to do a statewide ordinance, at the very least, protect the ones that already exist. If we're going to change something in the future, look at the difference between urban and rural. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-474). 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 (#160)

YEAS: Senators: ALFOND, BLISS, BOWMAN, BRANNIGAN, CRAVEN, DAMON, DIAMOND, GOODALL, MARRACHE, NUTTING, PERRY, RECTOR, SCHNEIDER, SIMPSON, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BARTLETT, BRYANT, COURTNEY, DAVIS, GERZOFSKY, GOOLEY, HASTINGS, HOBBS, JACKSON, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SHERMAN, SMITH

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-474) **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-474)**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned matter:

HOUSE REPORTS - 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**.)

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

Senator **BRANNIGAN:** Thank you, Madame President. Men and women of the Senate, I think you may have heard about this bill. Somebody may have talked to you about it. It's an important bill that we've had in our committee this year. As you know there's a dramatic, almost called an epidemic, of obesity, and especially diabetes that goes along with it, throughout the country. So there's an effort to help people, all of us to help ourselves, in trying to bring that under control. There are a lot of facets toward exercise, the whole issue of eating and knowing what we're eating. There's a major movement in the country. For those places that are large and visited by many, many people across the country, a movement to allow people to see what the caloric content is of the foods they are eating. It's a national movement and it needs to be continued. We need to be part of that. We're very delicate in the piece we have. You have to have 20 restaurants across the country. It's for those kinds of large chains. It doesn't go into effect for a couple of years, giving time to this whole issue to mature. I think it's very necessary for Maine to be part of the whole movement and I hope you will support the Majority bipartisan effort in our committee. Thank you.

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

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, this legislation is a bill that actually, in some variation or form, has been heard by the BRED Committee several times in my experience there. While I respect those who would like to provide access to information, I would contend that this access is available currently. You can go into any McDonald's and ask them for information. They'll provide you with a sheet that gives you not just caloric content, but nutritional value and salt and a variety of other things that might be of interest to you if that's your concern. Currently there's nothing preventing any restaurant that wants to do this. I think if it were particularly compelling by the public, we would see market forces moving us in that direction. That hasn't been the case. I think people tend to eat out, and choose to eat out, because they want to take advantage of sort of setting aside what might be their concerns about nutrition and treat themselves in a way that might be meaningful. Also it's interesting to me that 19 years ago we instituted labeling on food packaging and yet in the 19 years since then we've seen obesity increase about 70% in the United States. I'm not sure that information is the answer here. I think education might be the answer. I'm not sure that access to information is going to necessarily make a difference. I would just urge you to defeat this motion and I thank you for your time.

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

Senator **MARRACHÉ**: Thank you, Madame President. Men and women of the Senate, I rise in support of this bill. I wanted to point out, on your desk is a flyer going around. It's examples of what is currently being put out there for menu boards. I'm actually suggesting that we should really put down that on your menu board you should put the average calories per day a woman or a man should have. It's 2,000 for women and 3,000 for men. You'd be quite shocked, and more apt to choose more appropriately, if you realized this. Like if you look at one of these. Fish and chips was 1,000 calories. That one meal at one of these restaurants might be half of your entire day's calories. I think education is important, but when your menu boards are not in full view when you are ordering, it's easy to order the double-decker, the double-cheeseburger, or Baconator when you don't have to see the numbers right next to it. When you put them right next to it, you're more apt to look at it and go, oh my god. I remember when I went to eat with my family at Ruby Tuesday's. At some point they use to have the calories listed. We were going through it and I was about order my regular meal. Then I saw the number of calories. I was like, oh my god. That is more than half a day's. I'm not going to order that this time. When I went back a year later, it's now not there. So I don't know why that was removed. It probably changed people's options. They didn't want to do that to themselves or their family. When you look at children today, the number of people and children with obesity is on the rise and diabetes in children is huge now. So we really need to start doing something about it. I think posting the calories next to the actual item that people are going to order will clearly make people make better choices in their menu options. I hope you'll support this bill. Thank you.

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

Senator **CRAVEN**: Thank you, Madame President. Men and women of the Senate, this is a small effort, I think, for our fast food industry to offer up for our state to become healthier. The cost of health care today is out of control. We're always talking about the cost of health care. This is a very small opportunity for us to take the very first step in educating people, or reminding them at the very least of how many calories they're consuming. We tout education for everything else, including how to drive ATVs and be safe on them. I think that this is an opportunity to remind people that they might be consuming a whole day's worth of calories in one meal. We have the heaviest children in the country, and probably the heaviest population with chronic health care needs, diabetes and heart disease. I will really ask you to follow my light and vote for this bill.

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

Senator **SCHNEIDER**: Thank you, Madame President. Men and women of the Senate, I agree with the intention of the bill. I think the people that brought this bill forward have excellent intentions but I don't believe that by passing this law we're going to somehow miraculously reduce the weight of the children in this country. There are other ways to deal with this and certainly advertising is one of those things that we should be looking at because children are bombarded with advertisements promoting foods that are not healthy. There is an obesity epidemic. Certainly I think that's clear. Information is helpful, but I don't

believe that this particular bill will achieve its goal. I'd like to let you know that there's been a lot of rhetoric about big business and that this isn't going to hurt small businesses in any way. I happen to disagree. In fact I'd like to read an e-mail that I received from one of my constituents; 'Dear Senator Schneider, I'm a McDonald's franchisee with one of my restaurants being in Lincoln. I'm writing to urge you to oppose L.D. 1259, the Maine menu labeling bill, so that it may be addressed at the federal level. McDonald's supports the LEAN Act, a uniform national labeling standard, which has recently been re-introduced in Congress. McDonald's has been proactive in providing nutritional information for over 35 years. It is on our website, via toll-free hotline, and in our stores on our packing, tray liner and brochures. L.D. 1259 would allow any municipality to enact its own menu labeling law which would lead to a patchwork of State and local laws that will make compliance expensive and confusing. Customers should have consistent information, a consistent national nutrition labeling standard is the answer.' This person is not against nutrition information. This will definitely have a negative impact on our local businesses. These are small business owners that are barely making ends meet as it is given the economy. That's why I stand in opposition to this bill. I believe that we can achieve the intentions of this bill but not in this way. So I would urge you to vote against the pending motion. Thank you very much.

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

Senator **SHERMAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, I have two questions if I may pose those questions through the Chair?

THE PRESIDENT: The Senator may pose his questions.

Senator **SHERMAN**: Thank you, Madame President. Well the first one's sort of answered I think. I wonder if anyone's done a study as to what this would cost the industry to put these labels up and change them on a regular basis. That would be question number one. When we put a bill out here we also have a fiscal note with it. We don't seem to do that when we ask business to do something. The second one popped into my mind. It was noted that everything we buy in the store has a calorie count on it. Before I buy the ice cream I always look at the calorie count. It says about 320 calories. You can obviously see I've partaken of that a little bit. If we have calorie counting on every box we buy, our Wheaties, our Post Toasties or whatever it is, why is that we are all not thin as some of the members in this Body? Perhaps those members who are thin could give us some advice on how to get there.

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, I haven't always been thin. I was a rather fat kid, actually. They use to say that the level of Clearwater Lake would noticeably rise whenever I plunged in. It's been a lifelong struggle. This discussion reminds me where we were with tobacco and cigarettes about 15 years ago when I first served in

this chamber. We said, 'Well, why don't we raise the taxes on tobacco? Why don't we label? Why don't we put these products behind barriers? Why don't we advertise to children that they shouldn't be smoking? Why don't we open up a hot line so that people can call and have access to the patches? Why don't all 50 states sue the tobacco industry and we'll have a big tobacco settlement and create the Fund for a Healthy Maine?' Lord knows what we did across the spectrum of social engineering in order to bring the tobacco epidemic to heel. We haven't quite done it, but we can all reflect back on the last dozen years as being relatively successful in bringing down the rate of nicotine addiction among the people of Maine, to say nothing of the people of the United States. When we look back at that broad full frontal attack, you ask yourselves, 'Well which of those techniques worked?' The answer is, we don't really know but we did everything that occurred to us because it was essential that we stop killing people with nicotine, and low and behold we've had some success. It's very hard to look back on whether it was the warnings or the advertisements like 'Smoking Sucks.' What was it that worked? We may never know. Maybe the same thing is true of the obesity epidemic, which is killing just as readily, just as handily, just as many people as tobacco through causing diabetes, heart ailments, and circulatory diseases. It has a way of affecting one's health through and through. Maybe someday we'll look back at this and say, 'Well, was it the labeling on the packages? Was it that menu bill we passed in 2009? Was it something else that we did?' Maybe not, but let's hope that 15 years from now we can look back and say, 'Well we did a lot of things and some of them must have worked.' That would be good news, 15 years from now to look back on that. We won't get a chance until we start trying things and keep trying things. We've done the best we can in committee to make sure that this bill does not impose an undue burden on small businesses. It only applies to chains. The effective date of this bill is postponed until February of 2011, as other states may adopt this law. We, next session for example, can look back and say, 'Well is our law consistent with what other states or maybe the federal government is doing?' If it isn't then we can try and reform so that these chains, these big mammoth food chains, wouldn't be burdened with having to introduce different forms of signage. We want to make sure those things are relatively uniform and that we don't cause them any undue expense or difficulty. After all, they have to change prices about every month or two on some products. I assume they can change the calorie counts if they may need to. I don't think that we're imposing a very large burden on an industry that can afford to meet the burden. If we are, we'll have time to correct our law to make sure that we're not stepping out of line. The committee worked hard on this bill. I think we thought it through very carefully. I think this is merely one step among many that our society may need to take in order to bring this epidemic to heel and I urge your support for the bill. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, on the reverse of the good Senator from Somerset, I didn't always use to have this BMI. I was a skinny little kid and I use to have to wrench my belt to keep things up. I rode my bike everywhere. I mowed the lawn. I walked to work. I walked home from school. I played in the yard, just like kids are

supposed to do. I can't let my kid play in the yard now though, because there's a sex offender living a little ways down the street. I'd hate to ruin your day, but for 20 years we've been putting labeling on cans and cookies, chocolate bars, and ice cream. In that 20 years nothing seems to have even slowed down. I don't think that that's what's helping people make their decisions. They're eating what feels good and what tastes good. I don't think that I can, in good conscience, put this kind of cost on a successful Maine business that happens to have 20 outlets. They're not all McDonald's. I did talk to a gentleman who went to a food fair where you try to get a good deal on what you're buying and look at new equipment for your restaurant. There's actually a vendor there now who runs a laboratory and he will, when the State passes the law, analyze everything on your menu for you. He priced out for my constituent the appetizer page. The appetizer page would cost \$1,700. Now you have to stay within 10% for this to be accurate, so if the chef is a little flamboyant that night and throws in two or three extra pats of butter, or wants to thicken up the Hollandaise sauce and goes over the 10%, you're off. He also figured out that his menu would go from 15 pages to 45, based on what he would have to put on his menu to comply with what you're asking. Now frankly when people sit down for a nice dinner, the last thing they really want to read is 30 extra pages of what's in everything on the menu. Now should you want to change that appetizer page, for a mere \$170 you can have another item analyzed. So when you're talking about just menu labeling, you're not just talking about menu labeling. You're talking about someone having to make up every single thing the same way, putting it in a package, and throwing it in the microwave. You won't need a chef anymore. You'll only need him for the first time you do things. Should you want to introduce a special, you can't do it on the fly when things are cheap. If there's a good sale on something and you want to take advantage of a new trend, you've got to send it away for an analysis, or at least put it through to make sure that the server at the restaurant serving it is accurate within 10% on the calories, to make sure that you're in compliance with this law. Now I know we love to micromanage people's lives. I know you'd like to hold their hand from birth to grave. Somewhere along the way, you need to realize that people make decisions for themselves and if you can't sit down and look at a salad, or look at seafood Alfredo, and know that one of them is good for you and one of them is your treat for the week, then you're seriously underestimating the people of the state of Maine. As you can probably guess, I'll be voting no.

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

Senator **BARTLETT:** Thank you, Madame President. Men and women of the Senate, I support the pending motion and wish to speak briefly. I wanted to make a couple of points with respect to the cost issue. I think, as has been previously mentioned, this bill has been restricted in a number of ways to minimize the impact on our small businesses. First and foremost you have to have a certain number of establishments. You have to have 20 or more establishments in order to qualify for this. This doesn't take effect until February 1, 2011. That's after Massachusetts and California labeling will go into place. So we are talking about the national chains as the vast majority of folks affected by this. There will be menu options available from them to chose when they're reordering their menu boards. So, by delaying that implementation, we're making sure we're making it as easy as

possible. If you're a Subway or McDonald's, any of the other major chains, they're going to have to comply in California, Massachusetts, and in 15 states totally. So we're simply joining that trend. It will not be extraordinarily expensive to get that information. It's also important to understand that things like specials in restaurants are going to be exempted. Salad bars are going to be exempted. So particular exemptions have been worked in to minimize the impact and some of the concerns that have been raised. Let me also point out on a more personal note, I was traveling to a major city that had menu labeling. A salad shop, of all places. There were two salads that I liked pretty much equally well. The one that I usually get and another one I get on occasion. The one I usually get I knew was probably a few more calories, it had a little more cheese and some chicken on it. I never realized the magnitude of the difference until I looked at that board. For two salads I liked equally, I was either going to be consuming about 330 calories or 870 calories. That's a huge difference. I just never would have thought that the magnitude was that great. You see some of these examples on the sheet that's been handed out. The fact that on the kids menu the pepperoni pizza is being offered for 911 calories, on a kids menu. Knowing that changes consumer behavior and you're most likely to change behavior when you're given information on which you can act on at the moment you are about to take action. That's what this bill does, that's why it's important, and I hope you'll support it.

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

Senator **DAVIS:** Thank you, Madame President. Men and women of the Senate, I think this whole debate is on the wrong emphasis. If we want to get at the root cause of obesity in children, it's exercise not food. They must be dedicated, disciplined, hard working, and above all, stoic to be able to bear pain that exercise always encounters. So I feel that this whole thing about food is wrong. I guess they asked Ted Williams, at the end of a long life, what his secret was and he said exercise. So I would like to echo Ted Williams this morning. I think you ought to change the debate. Children need to run more, walk more, lift weights more, and bear some of that pain that goes along with it. Thank you.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, as I listen to the debate, and especially as I listen to the Senator from Somerset, I was struck by some of the questions that he posed in his remarks. Although I expect they were intended to be somewhat rhetorical, I couldn't help but think upon them for a while. It was interesting to try to reflect back, or projecting ahead, to be able to reflect back in 15 or 20 years and look back and say, 'Well, what was it that we did that made a positive impact on the lives of Mainers?' I believe, although we are separated by an aisle, everybody in this chamber is here to try to make a positive impact on the lives of Mainers and make Maine the best place it can be to live. So in the analogy that the Senator was using with regards to smoking, and the decline that's taken place there, was there a single answer? I suspect not. Warnings helped. Advertising or lack of advertising helped. All of the things that put together made a positive impact.

So it is with this particular bill and what we can look back on in 15 or 20 years hence to say, 'What was it that made the impact?' It might have been some of this labeling requirement, but also the Senator from Cumberland brings up a good point in terms of the importance of having physical activity and exercise. They do go hand in hand in determining fitness, body weight, and fitness. So we might be look at, in this particular bill, labeling of foods so that when we make the decisions, which we must do, I also agree with the Senator from Penobscot, that we must do that, they ought to be informed decisions. They ought to be informed decisions that we make, those choices that we choose. So, we might need to be putting something in in terms of transportation. I couldn't rise without talking something about that and providing the opportunity for safe walking, jogging, bicycling, and physical activities. We might look at transportation policies in terms of encouraging that type of activity rather than policies that inhibit it. All of the stuff together will be great fodder for debate in 20 years when we have done the right thing and then the only thing we need to argue over was which one was the rightist. I'll be supporting this. Thank you, Madame President.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Brannigan 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 (#161)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-481) **READ**.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-481), in concurrence.

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

An Act To Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine
H.P. 491 L.D. 708
(C "A" H-386)

Tabled - June 3, 2009, by Senator **BRYANT** of Oxford

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

(In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, June 3, 2009, **PASSED TO BE ENACTED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#162)

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

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

18 Senators having voted in the affirmative and 17 Senators 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.

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

COMMUNICATIONS

The Following Communication: S.C. 391

**STATE OF MAINE
124TH MAINE LEGISLATURE
OFFICE OF THE GOVERNOR**

June 3, 2009

To the Honorable Members of the 124th Legislature:

I am enclosing LD 1357, "An Act to Protect the Privacy of Maine Residents Under the Driver's License Laws," which I am vetoing pursuant to Art. IV, Part III, Section 2 of the State Constitution.

Last year, Maine took important steps to improve the security of its driver's license and identification cards. The Legislature passed and I signed into law new provisions that require applicants to demonstrate that they are residents of the State and that they are either U.S. Citizens or legally present in the country.

LD 1357 would repeal the legal presence requirement and allow Maine driver's licenses and identification cards to be issued to people who are knowingly breaking immigration law.

Maine's current law is fair and reasonable. Forty-six states, including every state in New England, have a legal presence requirement for their driver's license. Before last year's actions to increase the security of State credentials, Maine had become a target for unscrupulous individuals looking to circumvent legal presence requirements in other states. People were trucked in, in some cases by the van load, to get driver's licenses that would help them break the law elsewhere. With the protections put in place, such activities are much more difficult today.

Maine cannot and should not be an island unto itself.

While proponents of LD 1357 have argued that the repeal effort would protect the privacy of Maine residents, the case has been overstated. The law, as it stands today, does not mandate the use of fingerprints or facial image scans, or other biometric means, as part of the process to receive a driver's license. Current law only requires the Secretary of State to study the use of new technologies to determine the best way to reduce the risk of fraud and identity theft in relation to the issuance of Maine credentials. Furthermore, the current law does not allow the Maine Bureau of Motor Vehicles to participate in a national REAL ID database, where information from our State would be consolidated with information from other states. No such database exists, and if it did, Maine law does not allow participation.

Improving the security of Maine credentials was part of an arrangement made last year with the federal Department of Homeland Security. Maine's credentials fell short of federal security standards and put at risk the ability of Maine residents to use their driver's license as acceptable identification to board a commercial airline or enter a federal building. If Maine were to repeal its current law, Maine residents could face secondary screening and be singled out for additional scrutiny every time they fly or go to a federal courthouse. That is unacceptable to me.

I understand that there are serious concerns about the federal REAL ID law and its implications on personal privacy. The Obama Administration has shown a willingness to reform the REAL ID law and is working with the National Governors Association to revise many of the policy areas related to privacy. While the revisions continue to be refined, it appears from information currently available that the legal presence requirement will remain part of federal statute. We should not rush to make changes in Maine law that would place us in conflict

with the new president or threaten the strength and security of Maine credentials. Instead, we should work with the Obama Administration and the National Governors Association to improve the security of Maine's credentials while protecting personal privacy.

I understand that there are people who have been inconvenienced by Maine's new security standards. For some people, the process of renewing their driver's license has become more difficult. But those examples don't mean that the law is unreasonable or unworkable. Maine law gives great discretion to the Secretary of State to address individual circumstances that might make receiving a driver's license unusually burdensome. Anecdotal evidence is not enough reason to overturn current law.

Maine's legal presence requirement is reasonable and justified. I do not believe that Maine should issue driver's licenses to people who are not in the country legally. A driver's license is more than just a license to drive a car. It is an official credential that is used for many other purposes and which can be misused by someone in the country illegally. To change Maine's law unnecessarily puts at risk the integrity of State-issued credentials.

With these concerns and commitments, I hereby veto LD 1357 and respectfully urge you to sustain it.

Sincerely,

S/John E. Baldacci
Governor

READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

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

S.P. 492 L.D. 1357

The President laid before the Senate the following: "Shall this Bill become a law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#163)

YEAS: Senators: ALFOND, BOWMAN, BRANNIGAN,
CRAVEN, DAMON, JACKSON, SULLIVAN

NAYS: Senators: BARTLETT, BLISS, BRYANT,
COURTNEY, DAVIS, DIAMOND,
GERZOFISKY, GOODALL, GOOLEY,
HASTINGS, HOBBSINS, MARRACHE,
MCCORMICK, MILLS, NASS, NUTTING,
PERRY, PLOWMAN, RAYE, RECTOR,
ROSEN, SCHNEIDER, SHERMAN,
SIMPSON, SMITH, TRAHAN, WESTON,
THE PRESIDENT - ELIZABETH H.
MITCHELL

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, and 7 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Promote Economic Development and Reduce Reliance on Automobiles through Transit-oriented Tax Increment Financing Districts"

S.P. 511 L.D. 1392

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

Signed:

Senator:

PERRY of Penobscot

Representatives:

WATSON of Bath

BRYANT of Windham

LANGLEY of Ellsworth

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 "B" (S-296)**.

Signed:

Senator:

NASS of York

Representatives:

CHASE of Wells

KNIGHT of Livermore Falls

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)** Report.

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

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, if you look at this bill, it's largely about transit-oriented development districts that are potentially funded as a Tax Increment Financing system that we're fairly used to here. The problem is the extension of the TIF statutes to not just to transit-oriented TIF but also to a portion of what funds can be expended for once the TIF district is defined and the funds become available for development. The issue becomes, what do you use the funds for? We've always had restrictions on devoting those funds more to capital costs than operating costs. This proposal is the first. I'll use the term first. We've gotten perilously close to this, but they say it's the first time we've allowed these types of funds to be used for operating costs. In this case it might well be defined as say paying the bus driver or paying for fuel to drive the bus. That's the very narrow focus on this. These TIF districts can include ferries, and include a lot of things. If you think in terms of this legislation, it gives those kinds of operations the opportunity to spend on operating costs. I would contend, and my reason for opposing this, that this is not a good way to go. Badly as we might want to find a way to finance this kind of development, a TIF-oriented bus district, ferry service, or whatever, but to begin to use this for operating costs is not a good thing. I'd point to the situation with TIFs, to my way of thinking, is like a house of cards. If you were to see a list of the towns that have used TIFs, those towns that have not, and the costs. Don't forget we're talking about tax shifting here. Once you have a TIF district you're protected for the additional property tax or property assessment that's obtained there. That's sheltered as far as General Purpose Aid and revenue sharing goes. So there's a great advantage to using these TIFs. We have, over time, extended their use. Over time, 25 years or so, there are some towns that have made use and therefore sheltered some of their assessed value from penalty against General Purpose Aid and revenue sharing, and a lot of towns that have not. While any one TIF is not a significant shift, if you do it for a long time and then you begin to look at what towns are losing General Purpose Aid and how much it is, it's significant. So rather than start reading off a list of who gets, who lost money, and who's not lost money under this shifting, I will tell you that's something you should look at. It's now available, Revenue Services can give it to you, and it's significant. So I am opposed to this because I think we need to be really careful about the use of these TIFs, because a house

of cards tells me that as soon as people begin looking at what they're losing, this thing begins to lose its usefulness. That's what I'm here to suggest to you today. While we do definitely need a way to finance transit-oriented development districts, using tax increment financing, I would suggest, is not the way. So, Madame President, I urge your vote in opposition to the Majority Report. Thank you.

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

Senator **BLISS:** Thank you, Madame President. I am delighted to talk in favor of this motion. I actually agree with many of the things that my good friend from York County said. This is an exciting way to help municipalities, townships of all sizes all across the state, figure out how to move in the direction of taking automobiles off their roads by using light rail or buses or bicycle lanes. I agree with my colleague that this would be the first, apparently the first TIF experiment in including this different type of operating expenditure. That too is exciting. When DECD first saw this proposal they were not so excited about that part. Gradually they came to understand that this was a great opportunity for the state in terms of economic development, in terms of encouraging businesses, encouraging new ways for people to get around, and they came on board with us. The Maine Planners Association is on board. GrowSmart is on board. This is a very exciting opportunity for communities large and small all across the state. What does it do that's new and different? In addition to the equipment, this suggests that the transit TIF might be used to pay those bus drivers. That's something we've never done before, but it's an exciting new opportunity. It's a new way to move municipalities forward. Municipalities, as my good friend across the aisle indicated, are hurting. They're looking for ways to move forward. They're looking for ways to grow and develop. They're struggling. This is a way that we can help those municipalities in innumerable ways, not the least of which is by taking some of their automobiles off the roads. I'm excited about this, I urge you to vote in favor of this. Thank you very much.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I usually hate to get up twice, but I just want to remind people that there is a shift going on here from those municipalities that are going to benefit from this to those who don't usually and have not made use of TIFs. We've done a lot of shifting. This is more shifting. At some point or other, we have to recognize it and make a decision. That's what we want to keep doing because while it may benefit the municipalities, there are other municipalities, smaller ones usually, if you look at the list that's what happens, who are going to pay the bill for this. So this is tax shifting and expansion of that. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-295) 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 (#164)

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

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

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator PERRY of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-295) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)**.

Ordered sent down forthwith for concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Increase Consumer Choice for Wine"
H.P. 696 L.D. 1008
(C "A" H-366)

In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366) AS AMENDED BY HOUSE AMENDMENT "A" (H-526)** thereto, in **NON-CONCURRENCE**.

Senator SULLIVAN of York moved the Senate **RECEDE** and **CONCUR**.

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

Senator SULLIVAN: Thank you, Madame President. This, again, is an amendment that brings, to the best of my knowledge, everybody on board. This is known as the internet wine bill, wine by mail, and a number of other things. There was some concern about the legality of requiring a signature. The amendment that you have in front of you, under filing of H-526, is acceptable. It does meet the Attorney General's concerns. I would ask you to Recede and Concur.

On motion by same Senator, the Senate **RECEDED** and **CONCURRED**.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator PERRY for the Committee on **TAXATION** on Bill "An Act To Clarify Taxpayer Privacy Requirements"
S.P. 479 L.D. 1321

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-297)**.

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

READ ONCE.

Committee Amendment "A" (S-297) **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 were ordered sent down forthwith for concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 393

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

June 3, 2009

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Daniel Lawson of Monroe, for appointment to the Workers' Compensation Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	1	Jackson of Aroostook
	Representatives	9	Tuttle of Sanford, Bickford of Auburn, Blodgett of Augusta, Butterfield of Bangor, Clark of Millinocket, Driscoll of Westbrook, Gilbert of Jay, Hamper of Oxford, Thibodeau of Winterport
NAYS		0	
ABSENT		3	Rep. Cushing of Hampden, Sen. Gerzofsky of Cumberland, Sen. Mills of Somerset

Ten members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Daniel Lawson of Monroe, for appointment to the Workers' Compensation Board be confirmed.

Signed,

S/Troy D. Jackson
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LABOR** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#165)

YEAS: Senators: None

NAYS: 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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Daniel Lawson** of Monroe for appointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

The Following Communication: S.C. 394

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

June 3, 2009

The Honorable Elizabeth H. Mitchell
President of the Senate of Maine
124th Maine Legislature
State House
Augusta, Maine 04333-0003

Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 124th Maine Legislature, the Joint Standing Committee on Labor has had under consideration the nomination of Sophia L. Wilson of Dover-Foxcroft, for appointment to the Workers' Compensation Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

LEGISLATIVE RECORD - SENATE, WEDNESDAY, JUNE 3, 2009

YEAS Senators 1 Jackson of Aroostook
Representatives 8 Tuttle of Sanford, Bickford of
Auburn, Blodgett of Augusta,
Clark of Millinocket, Driscoll
of Westbrook, Gilbert of Jay,
Hamper of Oxford,
Thibodeau of Winterport

NAYS Senators 0
Representatives 1 Butterfield of Bangor

ABSENT 3 Rep. Cushing of Hampden,
Sen. Gerzofsky of
Cumberland, Sen. Mills of
Somerset

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Sophia L. Wilson** of Dover-Foxcroft for appointment to the Workers' Compensation Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

Senate at Ease.

Senate called to order by the President.

Nine members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Sophia L. Wilson of Dover-Foxcroft, for appointment to the Workers' Compensation Board be confirmed.

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

Signed,

S/Troy D. Jackson
Senate Chair

S/John L. Tuttle Jr.
House Chair

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Thursday, June 4, 2009, at 10:00 in the morning.

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LABOR** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#166)

YEAS: Senators: None

NAYS: 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