

MAINE STATE LEGISLATURE

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State of Maine

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

In Senate Chamber
Monday
June 8, 2009

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

Prayer by Reverend Glenn Peterson, Hope Baptist Church in
Manchester.

REVEREND PETERSON: Let us pray. Our Father, we thank
You that Your son, Jesus, taught us to pray to You as our Father.
We know that Fathers want to give good gifts to their children.
We thank You that You are a God who wants to give each
Senator here today a good gift. God, the gift that I am asking You
to give each Senator today is the gift of courage. You know,
Lord, that we are living in a scary world and these are scary
times. The temptation for all of us is to be afraid. The temptation
we face is panic. When we are afraid we make bad decisions, so
I pray, God, that You would remove any fear that is in these
Senators today and replace it with courage. We thank You that
over and over again in the scriptures we find Jesus saying, 'Fear
not.' We thank You for the message of the 23rd Psalm which says
that even though I walk through the valley of the shadow of death
I will fear no evil, for You are with me. I pray that when these
Senators are afraid today that they will pray to You. I pray that
they will seek You and I pray that You will give them the courage
today that they need to make good decisions for the good of the
people of the state of Maine and for the glory of Your great name.
Amen.

Pledge of Allegiance led by Senator Douglas M. Smith of
Piscataquis County.

Reading of the Journal of Friday, June 5, 2009.

Doctor of the day, Dr. Steve Diaz, MD, FACEP of Fairfield.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent 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)

In Senate, June 3, 2009, the Minority **OUGHT NOT TO PASS**
Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, 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) AS AMENDED BY HOUSE
AMENDMENT "A" (H-542)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Amend Certain Laws Related to the Department of
Agriculture, Food and Rural Resources"

H.P. 874 L.D. 1255

(H "A" H-454 to C "A" H-440)

In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-440) AS
AMENDED BY HOUSE AMENDMENT "A" (H-454)** thereto, in
concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-440) AS
AMENDED BY HOUSE AMENDMENT "A" (H-454)** thereto **AND
HOUSE AMENDMENT "A" (H-551)**, in **NON-CONCURRENCE**.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Preserve Home Ownership and Stabilize the
Economy by Preventing Unnecessary Foreclosures"
(EMERGENCY)

H.P. 994 L.D. 1418

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-524)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-524) AS AMENDED BY HOUSE AMENDMENT "A" (H-547)** thereto.

Report **READ**.

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

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Establishing the Blue Ribbon Commission To Study Landlord and Tenant Issues (EMERGENCY)
H.P. 747 L.D. 1080

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-489)**.

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 Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-489) AS AMENDED BY HOUSE AMENDMENT "B" (H-546)** thereto.

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-489) **READ**.

House Amendment "B" (H-546) to Committee Amendment "A" (H-489) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-489) as Amended by House Amendment "B" (H-546) thereto, **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 Bill "An Act Regarding Alcoholic Beverage Tastings"
H.P. 353 L.D. 498

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-281)**.

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc
PLOWMAN of Penobscot

Representatives:

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:

Representatives:

BEAULIEU of Auburn
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-281) AS AMENDED BY HOUSE AMENDMENT "C" (H-545)** thereto.

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-281) **READ**.

House Amendment "C" (H-545) to Committee Amendment "A" (H-281) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-281) as Amended by House Amendment "C" (H-545) thereto, **ADOPTED**, in concurrence.

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

Divided Report

Eleven members of the Joint Select Committee on **MAINE'S ENERGY FUTURE** on Bill "An Act Regarding Maine's Energy Future"

H.P. 1038 L.D. 1485

Reported in Report "A" that the same **Ought to Pass**, pursuant to Joint Order H.P. 63.

Signed:

Senators:

BARTLETT of Cumberland
PERRY of Penobscot
SIMPSON of Androscoggin

Representatives:

EBERLE of South Portland
CAREY of Lewiston
MARTIN of Eagle Lake
TREAT of Hallowell
ADAMS of Portland
SMITH of Monmouth
HINCK of Portland
CELLI of Brewer

Five members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-505)**, pursuant to Joint Order H.P. 63.

Signed:

Senators:

RECTOR of Knox
SMITH of Piscataquis

Representatives:

TILTON of Harrington
FLETCHER of Winslow
GILES of Belfast

One member of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**, pursuant to Joint Order H.P. 63.

Signed:

Representative:

FITTS of Pittsfield

Comes from the House with Report "A", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540)**.

Reports **READ**.

Senator **BARTLETT** of Cumberland moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, 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.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, in concurrence. (Roll Call Ordered)

ENACTORS

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

Acts

An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured

H.P. 883 L.D. 1264
(C "A" H-490)

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

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

An Act To Improve Tribal-State Relations

H.P. 333 L.D. 445
(C "A" H-516)

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

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

S.P. 532 L.D. 1447
(H "A" H-521 to C "A" S-202)

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

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

COMMUNICATIONS

The Following Communication: S.C. 399

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

June 5, 2009

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

Dear President Mitchell and Speaker Pingree:

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

- L.D. 10 An Act To Authorize a General Fund Bond Issue for Wastewater Treatment Facilities and Drinking Water Programs
- L.D. 153 An Act To Authorize a General Fund Bond Issue for the Land for Maine's Future Board
- L.D. 203 An Act To Authorize a General Fund Bond Issue To Assist the University of Maine System in the Conversion of the Educational Broadband Spectrum from Analog to Digital
- L.D. 214 An Act To Authorize a General Fund Bond Issue for Economic Recovery (EMERGENCY)
- L.D. 222 An Act To Authorize a General Fund Bond Issue To Improve State Parks
- L.D. 230 An Act To Authorize a General Fund Bond Issue for the Purchase and Protection of Traditional Hunting Grounds (EMERGENCY)
- L.D. 280 An Act To Authorize a General Fund Bond Issue for Repairs to Traditional Meetinghouses
- L.D. 369 An Act To Authorize a General Fund Bond Issue To Rebuild a Bulkhead and Wharf at the Gulf of Maine Research Institute

- L.D. 439 An Act To Authorize a General Fund Bond Issue for Research and Development To Stimulate Maine's Innovation Economy
- L.D. 472 An Act To Authorize a General Fund Bond Issue for Energy Conservation
- L.D. 507 An Act To Authorize a General Fund Bond Issue for the Construction of a Multiuse Arena in Bangor
- L.D. 518 An Act To Authorize a General Fund Bond Issue To Enhance Funding for Stem Cell Research in Maine
- L.D. 660 An Act To Authorize a General Fund Bond Issue To Maintain Train Quiet Zone Status in Millinocket
- L.D. 684 An Act To Authorize a General Fund Bond Issue To Finance the Acquisition of Land and Interest in Land for Public Land and Water Access, Conservation, Wildlife and Fish Habitats, Outdoor Recreation Including Hunting and Fishing and Farmland Preservation and To Access Matching Contributions from Public and Private Sources
- L.D. 709 An Act To Authorize a General Fund Bond Issue To Weatherize and Upgrade the Energy Efficiency of Maine Homes and Businesses and To Provide a Trained Workforce
- L.D. 729 An Act To Authorize a General Fund Bond Issue To Create a New Health Care Internet Infrastructure
- L.D. 732 An Act To Authorize a General Fund Bond Issue To Support Small Businesses' Access to Capital
- L.D. 770 An Act To Authorize a General Fund Bond Issue for Research and Development
- L.D. 775 An Act To Authorize a General Fund Bond Issue To Fund the Communities for Maine's Future Program
- L.D. 776 An Act To Authorize a General Fund Bond Issue for the Land for Maine's Future Board
- L.D. 810 An Act To Authorize a General Fund Bond Issue for School Construction and Renovation Projects That Demonstrate Cost Savings
- L.D. 858 An Act To Authorize a General Fund Bond Issue To Fund Energy Investments for Maine's Future
- L.D. 894 An Act To Establish the Maine Farmland Fund and Authorize a General Fund Bond Issue To Support Maine's Traditional Industries

- L.D. 895 An Act To Authorize a General Fund Bond Issue To Renovate Classrooms, Laboratories and Other Essential Teaching and Learning Facilities in the University of Maine System and the Maine Community College System
- L.D. 909 An Act To Authorize a General Fund Bond Issue To Fund Research and Development for Cancer
- L.D. 910 An Act To Authorize a General Fund Bond Issue To Promote Sustainable Green Housing
- L.D. 911 An Act To Authorize a General Fund Bond Issue for Affordable Housing
- L.D. 912 An Act To Authorize a General Fund Bond Issue for Capital Projects for Hospitals

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

Sincerely,

S/Sen. G. William Diamond
Senate Chair

S/Rep. Emily Ann Cain
House Chair

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

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

COMMUNICATIONS

The Following Communication: S.P. 569

STATE OF MAINE 124TH MAINE LEGISLATURE

June 8, 2009

Sen. Justin L. Alford
Senate Chair, Joint Standing Committee on Education and Cultural Affairs
Rep. Patricia B. Sutherland
House Chair, Joint Standing Committee on Education and Cultural Affairs
124th Legislature
Augusta, ME 04333

Dear Senator Alford and Representative Sutherland:

Please be advised that Governor John E. Baldacci has withdrawn his nomination of James Carignan for appointment to the State Board of Education, pursuant to Title 3 M.R.S.A. § 154.

This nomination is currently pending before the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Sent down for 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 Joint Select Committee on **MAINE'S ENERGY FUTURE** on Bill "An Act Regarding Maine's Energy Future"

H.P. 1038 L.D. 1485

Report "**A**" - **Ought to Pass**, pursuant to Joint Order H.P. 63 (11 members)

Report "**B**" - **Ought to Pass as Amended by Committee Amendment "A" (H-505)**, pursuant to Joint Order H.P. 63 (5 members)

Report "**C**" - **Ought Not to Pass**, pursuant to Joint Order H.P. 63 (1 member)

Tabled - June 8, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by same Senator to **ACCEPT** Report "**A**", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, in concurrence (Roll Call Ordered)

(In House, June 5, 2009, Report "**A**", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540)**.)

(In Senate, June 8, 2009, Reports **READ**.)

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

Senator **BARTLETT**: Thank you, Madame President. Men and women of the Senate, I just would like to speak briefly to this bill. This is the product of the Committee on Maine's Energy Future, L.D. 1485. I want to give you a brief overview of what we've done with this bill because I believe it is setting the stage for redefining the way we do energy efficiency in the state and changing the way we look at taking control of our energy future. First and foremost we build a census around consolidating all of our efficiency programs under one roof, to essentially create a one-stop shop. In the past we've had different places you would have to go for different efficiency programs. We thought it made it much more difficult for people to take advantage of the programs and to make sure they are operating in a coordinated way. That's particularly true with the stimulus money from the federal government. We've been working hard to make sure there is a coordinated plan across the agencies to make sure this money is put to its maximum use. The new agency will be called the Efficiency Maine Trust. It will bring together Efficiency Maine, which deals with electrical energy efficiency, the REGGI Trust, and energy components as well. The board members will be appointed by the Governor and confirmed by the committee and full Senate. The board will hire its own executive director, this way helping to create a level of independence for this agency so there will be continuity between the administrations.

Secondly, the committee spent a considerable amount of time working on stimulus plans and, in particular, workforce development. There are significant resources coming from the federal government but to a variety of different agencies such as the Department of Labor, the PUC, and the Maine State Housing Authority. We worked with them to put together a plan and that will continue through the legislation. We've also targeted some additional funds to be placed specifically for workforce development in the future to make sure that we are promoting a green economy.

Third, there has been much ado in the recent weeks about the language in the bill dealing with the transmission corridors. There have been proposals to use our highway systems and other large-scale corridors in order to move electricity through the state. In particular, from Canada right down through to Boston. We want to make sure that, as we go down that road, we do so with our eyes wide open and have full control of how this plan is implemented to ensure that it protects Maine consumers. In that regard, we have put together a legislative study commission, which will be made up of legislators as well as appointments by the Governor, to develop a plan so that we can come back next year and take the bull by the horns and make sure that we have a clean strategy in bringing forward the transmission that we want. It also requires that no final permits can be issued until such time as the work is completed by the study commission. We have created a number of exemptions to make sure that the permitting process can go forward on any project, large or small, to make sure that projects that are currently in the pipeline may continue to go forward and to protect the kinds of projects we know are on the horizon to help bring our renewable energy to market. The bottom line is that we want to make sure that as we move forward we're doing so in a way that protects Maine consumers and that maximizes our opportunities to utilize our wind energy resources.

The fourth component of the bill deals with affordable housing, workforce housing. It includes a revenue bond that will be used to increase the efficiency of units as well as to build some new and to replace some very old and inefficient trailers. This will have an important stimulus effect and can begin next year.

Finally, we all recognize that if we are truly going to weatherize all the homes and meet the goals put forward in this legislation we're going to need some sort of long term funding mechanism to ensure that we are weatherizing and increasing the efficiency of our homes and businesses. That will require tasking our new agency with coming forward with a long term plan on how to weatherize substantially every home and business in the state and how to improve energy efficiency in those buildings. They will bring a plan back with a proposed funding mechanism going forward and the next legislature will have an opportunity to act in 2011 to put in place a sustainable funding mechanism. As an aside, there will be a separate bill moving through the legislature with a bond that will help to bridge the gap between the end of the stimulus funding and when that new funding mechanism is in place to ensure that we continue our efforts to improve the efficiency of Maine homes and businesses. I would urge your support of this bill and would like to commend the work of the committee. We worked together in a bipartisan way and came to an unanimous agreement on the best elements of this bill.

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

Senator **RECTOR**: Thank you, Madame President. Ladies and gentlemen of the Senate, I would like to commend the Senate Chair of the Energy Committee and the work of all the members of the committee. I think it was a collaborative, respectful, and appropriate process that we went through. I can tell you, as the non-energy member of that committee, it felt like I was drinking from a fire hose a good deal of the time. I learned an awful lot about Maine's energy. I appreciate the knowledge and the expertise that was brought to the committee by many, many members. I won't outline the pieces that the good Senator has just illuminated for all of you. I just want you to know that I think that most, if not all of us that were on the Minority Report, I think, are satisfied with the additional work that was done after the report was issued. It has really addressed the concerns that we had in an appropriate way. I intend to be supporting the Majority Report of the committee. I also have been asked just to outline three slight areas. I have something to read into the record. In this bill permits in the usual course of State business, such as road or river crossing permits, are not going to be effected by the moratorium as it exists and as it's been outlined. The intent of the moratorium is not to apply the collection lines which bring power from individual wind turbines to a step-up transformer at the wind farm substation. These are not contemplated to be part of the 75 miles in length that is outlined in the moratorium and not considered to be part of the moratorium. In fact, the committee wanted to clarify that generator lead lines are not within the scope of the moratorium. In other words, the generator lead lines ends at the point of interconnection with a transmission distribution line owned and operated by another party. Just to be certain that we had that in. I'm grateful for the effort, as I've said, of all my colleagues on the committee and especially thank the Chairs. Thank you.

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

Senator **PERRY**: Thank you, Madame President. Ladies and gentlemen of the Senate, I too want to rise and thank the good

work of the Chair of this committee and the committee as a whole, the Senator from Knox, Senator Rector, and the rest. It really was a fascinating process and more in-depth and complicated than I think I could have certainly imagined when it began. I was really interested in this committee work, as I truly believe this is the biggest problem we face. Far bigger than the budget we faced this year. Far bigger than the tax structure. This is the biggest tax that is placed on all of us here in Maine, the energy tax. While we sit here and argue about if we are going to do anything with highways and 11¢ over four years or 5¢ surcharge, the people that supply us with oil have placed an 11¢ tax on us every month since January. There is nothing we can do about it. We are at the mercy of foreign governments when we are taxed on oil. Oil prices have doubled since January. This reprieve that we have started to feel back in the late Summer and early Fall has not lasted very long. It is becoming more critical than ever that we don't lose our focus on taking every step necessary to get ourselves off foreign oil. This bill is a great roadmap. It has some stimulus money, essentially bond money. It really does meet a long term mechanism to make sure that we do not take our eye off the ball. This is the biggest problem we face. I will be supporting this report and look forward to some measure of getting us down the road to energy independence. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I just wanted to comment on the work of the joint committee, which I think was extraordinary. I really want to offer my congratulations on the meticulous attention to detail, particularly as it relates to the energy corridor. A very sensitive issue. One of enormous importance to my part of Maine where we are, hopefully, going to be seeing the development of LNG and all the benefits that this will bring, not only for my home county but for the entire state of Maine. The energy corridor issue was one that was very important to those of us who are advancing that because of the tremendous energy and determination on the part of the government of New Brunswick, and the government of Canada, in their efforts to stymie and thwart the development of LNG in Washington County, even as they have proceeded rapidly with the permitting and construction of their own LNG facilities. I just didn't want the moment to pass without thanking the committee for their really meticulous attention to detail and working to come up with language that will address our concerns, but not spread too wide a web because we certainly didn't want to do anything to diminish the opportunity for our own transmission development in the state. I think it's a very good solution and I'm very pleased to be casting my vote in favor.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bartlett to Accept Report "A", Ought to Pass. 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 (#182)

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

NAYS: Senators: NASS, ROSEN, SHERMAN, WESTON

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **BARTLETT** of Cumberland to **ACCEPT** Report "A", **OUGHT TO PASS**, pursuant to Joint Order H.P. 63, in concurrence, **PREVAILED**.

READ ONCE.

House Amendment "A" (H-540) **READ** and **ADOPTED**, in concurrence.

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

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

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

An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured

H.P. 883 L.D. 1264
(C "A" H-490)

Tabled - June 8, 2009 by Senator **BARTLETT** of Cumberland

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

(In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**, in concurrence.)

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#183)

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, 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 (6/5/09) Assigned matter:

An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders
H.P. 292 L.D. 385
(C "A" H-474)

Tabled - June 5, 2009, by Senator **COURTNEY** of York

Pending - motion by same Senator to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**, in concurrence.)

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

On motion by Senator **COURTNEY** of York, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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" (H-474), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474) **READ**.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, the existing bill created a statewide set-back requirement of 750 feet from schools and there are certain

areas in my community that have a real issue with that. What this amendment would do is protect existing ordinances. If a local community has come to the conclusion that they needed a further set-back, in my case with Lyman and Waterboro both have 2,500 foot set-backs, this would allow those to continue. The issue here is that the community of Waterboro, several years ago, had a terrible time. There was a sex offender that was put on the street very close to the high school and junior high. Everyday the kids walked by the house and it really outraged the community. This fella that moved into this home had brutally beaten and raped a young girl, who was left for dead. It wasn't a matter of being vigilantes or trying to take the law into their own hands, they wanted to work through the system and put together something in place that would protect local children. All I'm asking with this amendment is to go forward with the State position, but these local communities have already reviewed this and I think that they live there and really need to have their views considered. The selectmen in Waterboro are absolutely opposed to the existing bill and I would hope that you would consider allowing them to maintain local control. Thank you, Madame President.

Senator **GERZOFISKY** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474).

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm speaking today, urging you to support the pending motion of Indefinite Postponement. This Majority Report is an 11-2 report from the Criminal Justice and Public Safety Committee in a bipartisan way. We felt that the Department of Corrections needs some type of consistency statewide for placing these sex offenders once they have served their time. If you don't have consistency statewide you really drive all these folks towards a very few communities and that's not a good situation. You have two towns that have been mentioned that do have a policy. Why treat them differently than two other towns that may be don't have a policy? I think this Majority Report was supported by the Department of Corrections and Public Safety to have some type of consistency for the departments to work with. I think you need to support the pending motion. Thank you.

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

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, while I think that I would like to have a statewide policy, I think that the towns know their districts and their neighborhoods a whole lot better than the State of Maine does. By reducing this from 2,500 feet to 750 feet, I'm wondering if the crime of sexual vision aggression would be a little easier for some of these pedophiles who live near our schools. We actually made that a crime a little while ago. With 2,500 feet I'd feel a little safer about my child than I do from 750 feet. We require setbacks for everything. We allow people in the towns to decide

on a lot. I'll tell you what, when the pedophile watching my child considers my child bait and they are the predator I'd rather have a fence and treat predators the way we usually do. If we had a civil commitment in the state of Maine we could civilly commit these people, like other states do, and make sure that our children don't need to have to kept 2,500 feet from a predator. They'd be put somewhere where a panel or a judge decides if they are safe enough to be on the streets. That would be optimum. In the meantime, when the young girl in the park or the schoolyard is within 750 feet of someone who just can't resist, who can't stop, and who uses every excuse in the book to get to that child, I don't think 750 feet is enough. In the state of Maine, the last time I checked, there were six probation officers who are trained to deal with sexual offenders. Six, there might be eight or nine now, I'm not sure. I interviewed one of them. I said, 'What are these people like?' He said, 'Debbie, by the time you get through talking with them at your weekly meeting, and they ask you out for coffee, you want to go.' They don't wear a sign that says predator. They wear a sign that says they could be the most successful salesmen in the world. It's their smile. It's their demeanor. It's the way they prey on weaknesses and strengths. The fool parents, teachers, policemen, and children. I really have a lot less sympathy for a predator than some of you probably do. If you commit a crime that makes you a social pariah then you are a social pariah. If it's not a deterrent than you take your lumps. I'm going to be on the side of a child every single time. I would urge you to vote against the Indefinite Postponement and then I would urge you to vote against the pending bill. It's not good public policy to choose predators over children.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, we heard a little earlier about consistency and trying to create the same protection, I guess, for people in all parts of the state. I guess when you look at the protections for a rural community with 2,500 feet, it's very different from a protection for an urban community of 750 feet. I guess I'd have to, respectfully, question the committee's decision. I think sometimes we get in trouble when we think we know better here than the people at home and the people that live there. This young girl that I spoke about a few minutes ago, Michelle, who was brutally raped and left for dead, she came up here last year. She came up here to testify on these bills. She felt that she didn't want the same thing to happen to somebody else. When the community was outraged and rallying she was out there. She's about 27 or 28 years old now. This is with her for the rest of her life. All I'm asking is for a small measure of protection going forward so that maybe we can just save one person. Thank you, Madame President.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in support of Indefinitely Postponing this and passing the bill. You can be smart on crime. You can be smart on keeping offenders in plain view. We had Waterboro come up. I asked the sheriff, 'Was there anybody in your community that didn't know where this person lived?' Absolutely not. 'Was there anybody in your county that didn't

know where this person lived because of all the publicity?' Absolutely not. I said, 'Good, because even in Cumberland County we knew where this person lived.' Having 1,000 sets of eyes on this person helps keep him behaving. Helps keep children protected. If you want to give your children protection, tell them where these people live, showing them where these people live, tell them not to be around these people, but for God's sakes, let's not send them under bridges to live so that we lose track of them entirely. Let's keep them on probation where they belong. Let's keep an eye on them. This committee has looked at this subject for the last eight years that I have been there. We've made a lot of progress. The laws that we've come up with in this Body have been used for a model around the country. It's because we're doing what evidence-based practices tells us works. We're not just watching Oprah. We're not just watching Bill O'Reilly rant and rave about things that they know nothing about. This committee has studied this an awful lot in eight years. I would hope that people would follow my light and Indefinitely Postpone this amendment and then go on to the bill and pass that with good numbers. Thank you very much, ladies and gentlemen.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I would urge you to vote against the pending motion and then move to support the amendment. I represent two towns in rural western Maine, Sebago and Baldwin. Both, under their home rule concept which we seem to pay less and less respect for, they have made their own decision. These little towns only have one or two schools. Most of the town is left open for residency. They have the luxury that urban areas don't, to expand the protection around the schools. Why don't we honor that? Yes, the committee has studied this well, but so have those boards of selectmen in the town meetings in those two communities. They have studied this just as well. I tend to believe that they know more about Baldwin and Sebago than perhaps this Body does. Accordingly, why not exempt those communities who have made reasonable regulations? It may somewhat exceed this but perfect sense for their communities. Why not grandfather those communities? Thank you very much.

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

Senator **GOOLEY:** Thank you, Madame President. I guess I rise to maybe not ask a question but I wonder about the demographics of sex offenders, I don't know how many there are in the state of Maine, especially in rural towns. If there are ten sex offenders in one town and an adjacent town has none, it would seem logical that the one with the ten would have much more concern over this issue. It just seems to me that local control is maybe the best control.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I guess I'm a little surprised at the passion from the opponents of this issue. I understand the concern, and you don't want everybody in one area. The good Senator mentioned that he spoke with our local sheriff, Sheriff Ouellette,

from down in York County. He said everybody knows where this person lives. I know where he lives too. You know where he lived? I'll tell you exactly where he lived. When you go down to Massabesic High School one end of the road is very rural and the other area has a few more houses. Even though it's rural, each of the houses is a few hundred feet apart. What happens is that in the little village, about half a mile away or so, the kids have to walk on the sidewalk almost directly across from where this fellow was placed. That's another debate that we won't have right now as to whether he was placed or whether he just ended up there. Some of the experts within the Department of Corrections and the community had a big battle whether or not he was placed there or whether he just found lodging there. That went on for a little while. This is why it's so important to respect local control. These people actually live there. In order for their kids to go down and get a soda after school, or before they had football practice or field hockey practice or something like that, they had to walk right by his house. It just seems so simple to me. You don't treat a rural area like Waterboro the exact same way that treat an urban area like Sanford or Portland. I really ask you to think about this and think long and hard before you make it easier for people to supersede this ordinance. I'm so passionate about it and I wish you would really consider it. Consider the long term implications. Thank you, Madame President.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, if you take ten or a dozen communities in a certain area, and every one of them may have their own ordinances from 1,000 feet to 2,000 feet and one community doesn't, the Department of Corrections, whose job it is to place these folks after they serve their time and to monitor them, very passionately pointed out to the committee that if you have a hodge-podge of regulations what it will do is concentrate these folks in the communities that don't. That is what they don't want. That's not a fair situation. I just wanted to point that out in further debate and urge you again to support the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky to Indefinitely Postpone Senate Amendment "A" (S-303) to 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 (#184)

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

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

ABSENT: Senator: JACKSON

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GERZOFSKY** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474), **PREVAILED**.

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

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474), in concurrence.

On motion by Senator **PLOWMAN** of Penobscot, 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 (#185)

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

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

ABSENT: Senator: JACKSON

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, 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 (6/4/09) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit the Delivery of Tobacco Products to Consumers To Prevent the Sale of Tobacco Products to Minors"

H.P. 850 L.D. 1230

Majority - **Ought to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-438)** (4 members)

Tabled - June 4, 2009, by Senator **MARRACHÉ** of Kennebec

Pending - motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, June 3, 2009, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438)**.)

(In Senate, June 4, 2009, Reports **READ**.)

Senator **BRANNIGAN** of Cumberland requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**.

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

READ ONCE.

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

Senator **MILLS:** Thank you, Madame President. I just wanted to remind people that this is the bill that directs that tobacco sales must be delivered through a retailer or dealer in Maine with one exception, that is for cigars, big cigars, not the little ones. Big cigars, in case you were wondering, are defined as those that weigh three pounds per thousand. I have no idea how big that is. Somebody had to write the statute. I think it's the hefty ones and not the little miniature cigars. In any case, that's the bill that lies before you. We hadn't taken it up for several weeks so I thought it would be good to remind people.

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

Senator **PLOWMAN:** Thank you, Madame President. The definition is not a State statute but it is an adoption of federal statutes. It is not the small cigars, it is the larger cigars. We are adopting a federal definition.

Committee Amendment "A" (H-438) **READ**.

On motion by Senator **BRANNIGAN** of Cumberland, Senate Amendment "B" (S-308) to Committee Amendment "A" (H-438) **READ**.

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

Senator **BRANNIGAN:** Thank you, Madame President. We discussed this the other day and it didn't take smoke signals to tell me I was going to lose. Therefore, we tabled this matter. I looked at it, dealing with the amendments that are before us, and feel that this is a necessary change. What the amendment does

is define premium cigars, we had large cigars before but that got mixed up with telephone poles. We changed it to premium cigars and we worked with the Attorney General's Office to define those. To answer the question, I'm not sure how much the Attorney General's Office used the national standard, but the standard is three pounds per hundred wrapped in whole tobacco leaf. I'm sure that means a great deal to you, who are connoisseurs. What this amendment also does is re-license the senders. What we had done was not require a license for those who were sending because they would send them to a shop that was licensed, so we had things covered. When someone else decided that we should not do it this way with large cigars, premium cigars, then we had to go back and require the sender to be licensed. This amendment does all of that. I hope you will support it. I am pleased that I was encouraged to mend my ways. Thank you.

On motion by same Senator, Senate Amendment "B" (S-308) to Committee Amendment "A" (H-438) **ADOPTED**.

Committee Amendment "A" (H-438) as Amended by Senate Amendment "B" (S-308) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438) AS AMENDED BY SENATE AMENDMENT "B" (S-308)**, thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/4/09) Assigned matter:

Bill "An Act To Improve Landfill Capacity"
H.P. 519 L.D. 760

Tabled - June 4, 2009, by Senator **GOODALL** of Sagadahoc

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-451)**, in **NON-CONCURRENCE**

(In House, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-451) AS AMENDED BY HOUSE AMENDMENT "B" (H-520)** thereto.)

(In Senate, June 4, 2009, Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (H-451), **READ**.)

House Amendment "B" (H-520) to Committee Amendment "A" (H-451) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-451) as Amended by House Amendment "B" (H-520) thereto, **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 (6/3/09) Assigned matter:

Bill "An Act To Increase Access to Nutrition Information"
H.P. 878 L.D. 1259

Tabled - June 3, 2009, by Senator **RAYE** of Washington

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-481)**, in concurrence

(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 3, 2009, Reports **READ**. On motion by Senator **BRANNIGAN** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-481), **READ**.)

On motion by Senator **PERRY** of Penobscot, Senate Amendment "A" (S-305) to Committee Amendment "A" (H-481) **READ**.

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

Senator **PERRY:** Thank you, Madame President. I think you will all recall this bill from last week. I have an amendment here that makes a couple of minor changes that have been accepted and approved by both sides in this matter. It simply says this is going to be a statewide standard and municipalities can't up the standards and create uncertainty with businesses out there. There are municipal standards in other states and I think that is because the states had failed to act so cities took it on their own. We're acting here and I think we should have one statewide standard. Thank you.

On motion by same Senator, Senate Amendment "A" (S-305) to Committee Amendment "A" (H-481) **ADOPTED**.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-481) as Amended by Senate Amendment "A" (S-305) thereto, in **NON-CONCURRENCE**.

The Chair laid before the Senate the following Tabled and Later (6/3/09) Assigned matter:

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Enhance Maine's Electronic Waste Recycling Law" (EMERGENCY)
H.P. 381 L.D. 536

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-499)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-500)** (4 members)

Tabled - June 3, 2009, by Senator **GOODALL** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report, in concurrence

(In House, June 2, 2009, 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)**.)

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

On motion by Senator **GOODALL** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-499) **READ**.

On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "A" (S-307) to Committee Amendment "A" (H-499), **READ**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ADOPT** of Senate Amendment "A" (S-307) to Committee Amendment "A" (H-499).

Senate at Ease.

Senate called to order by the President.

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

Bill "An Act To Enhance Maine's Electronic Waste Recycling Law" (EMERGENCY)

H.P. 381 L.D. 536

Tabled - June 8, 2009, by Senator **GOODALL** of Sagadahoc

Pending - motion by same Senator to **ADOPT SENATE AMENDMENT "A" (S-307) TO COMMITTEE AMENDMENT "A" (H-499)**

(In House, June 2, 2009, 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)**.)

(In Senate, June 8, 2009, on motion by Senator **GOODALL** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-499) **READ**. On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "A" (S-307) to Committee Amendment "A" (499), **READ**.)

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

Senator **SMITH:** Thank you, Madame President. Members of the Senate, just briefly. The difference between the Majority and Minority Reports has been right along the establishment in the Majority Report of a new fee. It continues even under the amendment we've now adopted to the Majority Report. This amendment will basically put off the time when the fee will be imposed after removing the emergency enactor in this bill, which would require some sort of a delay in it anyways. For those who are interested in not voting for new or enhanced fees at this time, this is your chance to either vote for it or against it. I will be voting against this amendment and bill.

On motion by same Senator, 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 (#186)

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

NAYS: Senators: HASTINGS, NASS, PLOWMAN, SMITH, WESTON

30 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **ADOPT** Senate Amendment "A" (S-307) to Committee Amendment "A" (H-499), **PREVAILED**.

Committee Amendment "A" (H-499) as Amended by Senate Amendment "A" (S-307) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-499) AS AMENDED BY SENATE AMENDMENT "A" (S-307)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act Pertaining to the Breeding and Selling of Dogs and Cats"

H.P. 666 L.D. 964

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-553)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-553)**.

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

READ ONCE.

Committee Amendment "A" (H-553) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act To Expand Tax Incentives for Visual Media Productions"

H.P. 1005 L.D. 1449

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-554)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-554)**.

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

READ ONCE.

Committee Amendment "A" (H-554) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTORS

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

Emergency Measure

An Act To Conform State Mortgage Laws with Federal Laws
S.P. 523 L.D. 1439
(H "A" H-532 to C "A" S-221)

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.

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 Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation
H.P. 545 L.D. 796
(C "A" H-527)

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

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment
H.P. 803 L.D. 1164
(C "A" H-534)

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

An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects
H.P. 879 L.D. 1260
(C "A" H-535)

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

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

S.P. 491 L.D. 1356
(C "A" S-301)

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:

ENACTORS

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

Acts

An Act To Amend the Animal Welfare Laws
H.P. 758 L.D. 1103
(C "A" H-523)

An Act To Establish the Maine Fuel Board
H.P. 1007 L.D. 1455
(C "A" H-345; H "A" H-525
to S "A" S-261)

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

Resolves

Resolve, To Reduce Funding to Maine Clean Election Act Candidates

S.P. 345 L.D. 923
(H "A" H-533 to C "A" S-287)

Resolve, Relating To Review of Certain Changes in the Application of the Sales and Use Tax Law

H.P. 775 L.D. 1120
(C "A" H-528)

Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10

H.P. 1041 L.D. 1486

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Maine Clean Election Laws Governing
Gubernatorial Candidates"

H.P. 970 L.D. 1380
(C "A" H-429)

In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-429)**, in
concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-429) AS
AMENDED BY HOUSE AMENDMENT "A" (H-529)** thereto, in
NON-CONCURRENCE.

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

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

COMMUNICATIONS

The Following Communication: H.C. 203

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

June 8, 2009

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

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it
accepted the Majority Ought Not to Pass Report of the Committee
on Inland Fisheries and Wildlife on Bill "An Act To Allow Smelt
Fishing in Metallak Brook, Upper Richardson Lake"
(EMERGENCY) (S.P. 348) (L.D. 926).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

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 REPORT - from the Committee on **INSURANCE AND
FINANCIAL SERVICES** on Bill "An Act To Preserve Home
Ownership and Stabilize the Economy by Preventing
Unnecessary Foreclosures" (EMERGENCY)

H.P. 994 L.D. 1418

Report - **Ought to Pass as Amended by Committee
Amendment "A" (H-524)**

Tabled - June 8, 2009, by Senator **RAYE** of Washington

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

(In House, June 5, 2009, Report **READ** and **ACCEPTED** and the
Bill **PASSED TO BE ENGROSSED AS AMENDED BY
COMMITTEE AMENDMENT "A" (H-524) AS AMENDED BY
HOUSE AMENDMENT "A" (H-547)** thereto.)

(In Senate, June 8, 2009, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-524) **READ**.

House Amendment "A" (H-547) to Committee Amendment "A" (H-
524) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-524) as Amended by House
Amendment "A" (H-547) thereto, **ADOPTED**, in concurrence.

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

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

After Recess

Senate called to order by the President.

Off Record Remarks

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

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

Off Record Remarks

Senator **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.

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 Ensure That Construction Workers Are Protected by Workers' Compensation Insurance"

H.P. 1008 L.D. 1456
(C "A" H-536)

In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536) AS AMENDED BY HOUSE AMENDMENT "A" (H-557)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **JACKSON** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Charter Schools in Maine"

S.P. 522 L.D. 1438

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (5 members)

Tabled - June 5, 2009, by Senator **WESTON** of Waldo

Pending - motion by Senator **ALFOND** of Cumberland to **ADHERE**

(In Senate, June 4, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In House, June 5, 2009, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283)**, in **NON-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 Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, this issue has been one that I have found very difficult. I found it difficult when we debated it in a previous legislature and I find it equally, if not more, difficult during this legislative debate. My primary concern, and the primary reason that I have opposed charter schools, has been my worry about the competition for scarce dollars. At a time when so many of the schools in my district are suffering from what I believe is a very unfair and regressive school funding formula, the EPS formula, the notion of having up to another 20 schools, these charter schools, in the mix and competing for those precious dollars has been very troubling to me. I just wonder if I might pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **RAYE:** Thank you, Madame President. Is there anyone who would be able to speak to the issue that I know has been at the forefront of discussions today with the federal Secretary of Education having a conference call to talk about the Obama administration's approach to charter schools, and particularly with federal funding? I believe it is called the Race to the Top funding. I'm curious if the Education Secretary has been able to offer any specific or concrete assurances that might address the concerns that I just mentioned and that I think other Senators in the Body may share?

THE PRESIDENT: The Senator from Washington, Senator Raye poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON**: Thank you, Madame President. Ladies and gentlemen of the Senate, I had pressed my request to speak button before the question was posed, so I may not get to the question as I make my remarks, although I think that information will be shared with the Body this afternoon. I had said to members of the chamber when I last spoke on this issue that I was concerned as well about the siphoning off very scarce public education dollars for the use in charter schools. I was more concerned about my experiences in the public schools, not during those 18 years I spent as a student there but more from the prospect of when I was an instructor. I saw those students, many like myself when I was a student, who were kind of drifting and couldn't seem to get a purpose. Nothing was really hooking on. To me, there is a great opportunity in the charter school to affect that group of students. Not the high achievers and not the special needs, but that group in the middle. Out of that group in the middle, they are all gems, is the real opportunity to affect lives. I didn't realize at the time that I had sponsored the bill that there was the possibility of this Race to the Top money. Almost \$5 billion that the federal government is going to inject into education in this country so that we can have the best public education that we can possibly achieve. It is from that perspective, not from taking money away but from adding to with regard to the charter schools, that I continue to support this and I will be voting in opposition to the pending motion. I would urge you to as well so that we can move forward with our progress in this area. It is true that we have a very fine magnet school and it is also true that we have some very fine alternative schools. The possibility of having a charter school program, albeit a pilot and a small one that won't take more than 5% of any of the students from any particular district, I think is a very worthwhile gamble and I think that the dividends that I understand that can come from it will be entirely worth it. I would urge that. I would also urge, to the Senator's question, that if people have an answer to that it should come forth now. Thank you, Madame President.

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

Senator **DAVIS**: Thank you, Madame President. Men and women of the Senate, I'm going to vote against this for the following reasons. I read from the bill itself, 'The school plans for identifying and successfully serving students with disabilities and at-risk students, English as a second language, and gifted students, including but not limited to compliance with the applicable laws, rules, and regulations.' There is no way you can do this without costing more money. You will need guidance counselors and ed techs. You need AP teachers. This is going to be more money. The federal stimulus funds will run out in a couple of years. How many are satisfied with the special ed funding? The U.S. government and the federal courts say we have to have special ed but they've never funded it properly. The same thing will happen here. I think that another objection I have to it is you are giving a charter school almost autonomy and who's going to control this? In this bill the universities can sponsor a charter school. I like elected school boards. If you don't like them you can vote them out at the next election. I am going to vote against this. I hope you will think long and hard before you vote for it. Thank you.

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

Senator **WESTON**: Thank you, Madame President. Men and women of the Senate, I'm in a posture of bipartisanship as I stand because I just had a conversation with Secretary Duncan. I was on the listening end. He was on the speaking end. I want to tell you a few of the things that he has just said because he talked about Maine. He believes that there is a lot at stake. We have too many students who are leaving our schools unprepared. We have students who are falling through the cracks. We have students who are dropping out. It's not just in urban areas, but rural areas as well. He's a very determined man. I've never listened to him before. It was just a conference call at 2 o'clock. He started out by saying, 'I want to be crystal clear.' He is determined to give these students an opportunity. He wants rigorous standards. He wants to recruit the best teachers. He wants a data system so that we can know we are doing a good job. He wants to take over, if necessary, low performing schools. At the top of his list to accomplish these goals, he wants school reform in the name of charter schools. He said this is not new. This isn't an experiment. Not only have individual charter schools succeeded, we have networks of charter schools that have succeeded. Magnet schools don't cut it, he says. Maine, he said, has tabled their charter school legislation. Forty states have this law in place. Twenty-six of them have caps. Maine and Tennessee seem to be the two states that got a lot of notice in this call that went nationwide. Top newspapers in the country asked a lot of the questions. We know that our students are entering our universities and colleges unprepared. What is it that is preventing us from taking this step that both Republican and Democratic Presidents have espoused and that this new Secretary of Education is demanding? The Race to the Top money is a lot of money. It's not just for charter schools but he said he's going to funnel that to states that prove they want to reform, they don't want the status quo. He wants these children saved. I'm not even sure if this bill before you will cut the mustard because he doesn't want these restrictions. The money is going to be given out in two phases. October 1st is the first round of applications. The money awarded will be sent to states in February. Then in the Spring another wave. My understanding would be that if Maine stepped forward and passed a bill, even though it's much more restrictive than most other states, we would be showing the federal government that we do, indeed, know there is a problem and we are ready to embrace some reform, reform that is proven, not an experiment. If we find then that this law is a little bit restrictive we have an opportunity in the next phase. What will that money be used for? I can't tell you. It's not just going to charter schools. It will go to your schools if they are serious about taking these poor children. One thing that Secretary Duncan said rang really true with me. He served in some of the poorest schools. He watched the most uneducated parents step up to the plate and make the very best decisions, trying to get their children into charter schools. Many of the people that called in talked about the waiting list in different states. I want to be crystal clear. This is not the end all, but we have sat here year after year watching our dropout rate increase. Watching the numbers of kids or young adults not working and not in school. Let's embrace this. It may be an experiment for Maine but it could make the difference in the future of many children.

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

Senator **ALFOND**: Thank you, Madame President. Ladies and gentlemen of the Senate, we have another spirited conversation on our hands and I'm glad to be the point person with the good Senator from Waldo. Let me read you something that was sent to Commissioner Gendron from Dean Kernan, who heads up the Office of Innovation. 'My call last week has prompted internal conversations about small rural states and what they consider as innovative practice.' He said, 'The Secretary is very intent on charter schools for urban areas.' Urban areas. How many towns and cities do we believe are urban areas in the state of Maine? I would argue none. States that have great charter schools are states that no one fully believes in their school systems. I don't believe that's where we are. Secondly, the funding. Again, no one wants to bring up the reality of where we are. The reality of where we are is that in 2011 we're going to have \$68 million less for all of our schools. Now we add charters to the mix. When charters come into the mix, you have a charter in your community and students go to a charter, the money follows the student, and now we are taking a small pie and cutting it up even more. Not only will we have not enough funding for your school because we all know that our schools are struggling right now, but now we are going to have charter schools that are not going, potentially, to have enough money to really create this innovation too. I think that, to me, is challenging.

There is another piece that hasn't been brought up. After these monies have gone away, whether it's the Race to the Top funds or the \$400,000 that each charter would get for three years, part of this bill would require that the communities that create charters to keep up their infrastructure. They have to pay for the infrastructure. The Department of Education or the federal government, no one's paying for their infrastructure. Thus you are going to have to have communities fundraising all the time, consistently, just to keep their infrastructure at a place where they can keep up this innovation. I think it is really challenging, knowing how hard it is to raise money in this state. We're going to say, 'Okay community, you are going to have to raise money consistently, to keep your charter going. Your infrastructure going.'

The good Senator from Waldo talked about the bill itself. I would agree. The bill itself probably would, as she said, cut the mustard with Secretary Duncan. This is so watered down, so capped, that they might say, 'You know what, great. You've got it on the books and we're not sending you any money because you are allowing ten charter schools in the first five years.' I don't think that is what they are looking for. They've asked every state that has charters on their books to eliminate the caps. We're saying, 'Oh, we're going to put something on the books and we're going to cap it because, for us, this is a big step in itself.'

Finally, I was interested in my new superintendent. He's coming to Portland. I said, 'What do you think of charter schools?' He said, 'Oh, I can't wait to have charter schools.' I said, 'Why is that?' 'Because we need a music and arts charter school in Portland.' In my hierarchy of needs that's not exactly where I would have a charter. I think I would have a charter where the Senator from Waldo, Senator Weston is talking about, where we are looking at at-risk students and looking at students who are falling through the cracks. I'm concerned about every student in Maine, but I'm not ready to have an arts and music charter in the city of Portland. Thank you very much.

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

Senator **PLOWMAN**: Thank you, Madame President. So Maine doesn't make it as urban? That's okay with me and it's probably okay with a lot of people in Maine. I will tell you that there are places in Maine where people would love to have an option as to where to send their children. People move to my district for the education. They move to one of my towns for the school choice. If they can't afford to move they are stuck with what they have. I grew up in Lewiston. Many of you don't know that. If you had to go to the school on the side of town that had tall pines you didn't get the best education and you were an at-risk child. There is a place in Lewiston and a place in Bangor. There are places in Biddeford. There are places in Sanford where, because you can't afford a private school and you can't afford to move into a different district, your child doesn't get what other children get. When it comes to education, children can't waste a year in a district that doesn't have a great second grade. The school is great except for second grade. Hold on, because when they get through second grade it's okay in third. That's not an art charter school. That's a magnet school. We keep trying to start one in Bangor. It doesn't work. I tell you what, in some of the neighborhoods in Bangor you gave parents no choice. They can't afford Bangor Baptist. If they can they move to Glenburn. We have kids going to schools all over the state of Maine and sometimes to high schools outside the state of Maine because they have school choice. That's a tax benefit that they actually have. There are children whose parents deserve a break. They shouldn't have to pick up and move to Hampden to have a school choice. They shouldn't have to wait to get to the middle school. I tell you what, when a charter school starts up, and they put their health insurance out to bid, they will save about \$1,000 per family policy. If you could do that in a school district right now you could save about \$400,000 in a district that has 400 employees. If you want to make money go further, throw some competition in the mix. If you want things to step up, throw some competition in the mix. When you are talking dollars versus a child who has to wait or just doesn't get there because they can't afford to go to a private school and they have to stay where they are, I say this is the minimum we can do. Just because we are proposing the minimum doesn't mean that we should shirk what we should be doing. Five billion dollars. If that was transportation money you'd be asking how much we would need to match it. If that was DHS money you'd be asking how much money do we need to put up to match it. What's the difference? I'm not sure. I'm really not sure. I think it's almost like a social cleansing kind of thing. I actually had one lady say that if you can't afford to live in Hampden then you should move somewhere else. If you can't afford the taxes go somewhere where it is cheaper. If you moved here for the school system, sit down and shut up. How do you give the kids the best education? You should at least be in the posture to accept it. I just can't imagine that we're not going to put ourselves in that posture. Thank you.

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

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, just a few brief comments. We already have evidence of a tremendous hunger for this sort of option within our public school systems. I remember 20 or 30 years ago

there used to be only about 50 or 100 homeschoolers. I checked a couple of years ago and the number was up over 4,000. I'm not sure where it stands today. I think it's well north of that. Many of these homeschoolers are coming together to form informal educational arrangements, using grange halls and town halls and that sort of thing. This is a phenomenon that's going on in large measure in rural Maine. I've got a lot of homeschoolers in my district. A teacher, who is a neighbor of mine, left the public school system after 28 years and has formed a private school from scratch using a building that she owns. She's hired one other teacher. She started this little school about three or four years ago. She's now up to sixteen students. They pay several thousand dollars a year to attend. The parents transport the children to this school. She's taken on some kids that have had great difficulty in doing well in the public school setting and has done very well with these children. She has provided an alternative educational setting that is of a very high quality and without any public support at all. My daughter started out teaching 15 or 20 years ago in Roxbury, Massachusetts, in a charter school teaching some of the most unfortunate children you can imagine. She said it provided the kind of environment that was essential to their survival in an organized school system. This is not the same thing as the rather infamous debate over vouchers. I think it's worthwhile to draw a distinction between those who support vouchers and those who support charter schools. The voucher movement has its own arguments and its own legitimacies. It does, in many ways, undermine support for a public school system. A charter system is within the public system. It uses public money. There are constraints on what a charter can do. On the other hand, there are freedoms within the charter school system that are deeply relished by some of the people in other states who have had the advantage of being able to start charter schools or participate in their management or teaching within them. These are not new. Charter schools have been around for a long, long time. Most of the other states in the Union allow them to exist and support them. We are one of the very few states that don't have them. Yet the pressure is on our system to have such things because so many of our kids are dropping out into homeschooling or just dropping out absolutely. Some of our public school systems, a few of them, have responded by setting up alternative schools. We've seen this. Newport has one. Skowhegan has one. Not all districts are able to do that or have been willing to do it. We've got the most extensive special ed system among the fifty states of the Union. Perhaps we would have fewer kids in special ed if they had options available locally for different environments in which to learn. I think this is creative and worthwhile. I'd like to call it an experiment, except it would only be an experiment in Maine because the other states allow this as a matter of routine. I think to allow ten charter schools at this juncture, to allow our state to see how they work, does very little harm to our public school system and might, heaven forbid, rejuvenate the educational experience in some of our towns.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, we all know that Maine is losing student population. Poor rural communities, in particular, are seeing the school funding formula flat or declining because of the new EPS school funding formula. With the decline in funding, many

legislators have stated, some publicly, that the rich communities along the coast should pay more for the cost of public education. Senate District 20, my district, is one of the so called property rich districts with nearly one-third of my towns minimum receivers of State subsidy. That's receiving virtually no State subsidy and only a portion of special education costs. Lincoln County, which encompasses most of my Senate district, is the oldest county in the state population-wise. I believe as the federal money dries up for charter schools and their costs escalates, districts like mine will be asked to pick up the new costs in higher property tax valuations. This shift of burden is already beginning. Just recently the Maine legislature enacted cuts to special education funding to minimum receiver towns while continuing to pay a higher rate to poorer districts. This new policy unfairly targets districts like mine to pay for education for districts that don't have any effect on the folks in my district, their students, and their property tax payers. Just recently the Legislature contemplated adding the \$60 million cost of teacher retirement to EPS, of which most would have fallen to minimum receiver towns like mine. Some would say that allowing charter schools are a good trade off to higher property taxes in districts like mine. I disagree. President Obama's support of charter schools stems from his belief that they would aid inner city schools. I believe that if you allow all the charter schools in L.D. 1348 they'll end up in urban areas of Maine where political power is concentrated. City centers with many more Representatives and Senators and stable student populations, I believe, will one day dictate the locations of the limited charter schools in Maine and the federal funding associated with them. Many of these cities already enjoy broader curriculum and educational opportunities, as well as a wider property tax base to spread costs associated with charter schools that rural areas do not have. If this scenario plays out as I suspect, the inequalities between rural and urban public education students will broaden. Many argue charter schools increase competition, thus promotes higher standards and accountability. This may be true but I believe many of the problems in our public education system are found in poverty, drug and alcohol abuse, poor work ethics, and a lack of parental involvement and a need for greater peer review of teacher tenure. In addition, ever changing standards entrenched in political expediency like No Child Left Behind and Learning Results consume precious resources that should be targeted to teaching instead of testing. Ignoring those problems while moving toward charter schools in limited areas means students that cannot access charter schools will be left in the unhealthy learning environment I just described. It is my opinion that charter schools should be debated in the broader context and as part of reforming Maine's education system instead of as an alternative to it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alford to Adhere. 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 (#187)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRYANT, CRAVEN, DAVIS, DIAMOND, GERZOFSKY, GOODALL, HOBBS, JACKSON, MCCORMICK, PERRY, RAYE, SCHNEIDER, SHERMAN, SIMPSON, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BRANNIGAN, COURTNEY, DAMON, GOOLEY, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RECTOR, ROSEN, SMITH, SULLIVAN, WESTON

ABSENT: Senator: MARRACHE

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **ALFOND** of Cumberland to **ADHERE**, **PREVAILED**.

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 **TAXATION** on Bill "An Act To Designate Sales Tax Holiday Weekends"
H.P. 792 L.D. 1148

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

Signed:

Senators:
PERRY of Penobscot
BLISS of Cumberland

Representatives:
WATSON of Bath
BRYANT of Windham
VALENTINO of Saco
CROCKETT of Augusta
PILON of Saco
CHASE of Wells
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-400)**.

Signed:

Senator:
NASS of York

Representatives:

LANGLEY of Ellsworth
FLEMINGS of Bar Harbor
KNIGHT of Livermore Falls

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **FAILED PASSAGE TO BE ENGROSSED AS AMENDED**.

Reports **READ**.

Senator **PERRY** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-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 Nass.

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, the sales tax holiday is the subject. It's a perennial. At least to my recollection, somebody proposes it pretty much every session. It's before us now. I don't recall that I've supported it in the past but I did this time. I guess I've caught on to the enthusiasm of the sponsors plus one of our friends who showed up the day of the hearing and convinced me that this is something we should do. It's kind of a self-help effort. Instead of waiting for the federal government to bail us out, it is something we can do to generate more business here, locally. On that basis, I supported it. It is something that other states have done successfully. There has been some pretty good press coverage indicating that the nearby state of Vermont has done it and went into it with obviously the same risks that we would. It is going to work? That's the risk. Because of the way we account in our fiscal note process, we have to come up and pay for a fairly substantial proposal. I think it's around \$6 million in the original proposal. At least I was convinced that it's something we should consider. It is working elsewhere in some other states. Because we are hampered with the way we have to account for these things we're somewhat limited as to the initiatives that we can take. That doesn't make it a bad idea, in my mind, and I know this is just something that I think can work for Maine. The other thing is that apparently all of the states surrounding our friends in New Hampshire have developed this kind of thing. Based on my district, which is close to the New Hampshire border where most of the business is done, this would at least, for a small period of time, give those folks who would like to conduct business in our state the opportunity to do so. Madame President, I would urge that you vote against the Ought Not to Pass motion. There are some amendments that can reduce the cost of this and restrict it. We can have discussions if it is necessary about when we would do this. There are some ideas about that. Thank you.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, we've had this bill and many bills like it,

different folks and different ideas, year in and year out in the Taxation Committee. We almost always, overwhelmingly, kill them. It isn't anything you really could consider good tax policy. If times were flush and we were running surpluses and we wanted to throw a few million dollars to the wind and do this because it would be kind of fun and interesting, maybe that's another story. It will reward some people who can afford to go out and make the purchases they want at the time we say it will be tax free for that day or two. For everyone else it's not going to make much of a difference. It does put a hole in the budget. We can kill it here or it will die on the table later. I'd just as soon kill it here and be done with it. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you, Madame President. I'm curious as to what the fiscal note would be. We've heard there is a cost to it but I'd like to know what that amount is?

THE PRESIDENT: The Senator from Cumberland, Senator Diamond poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Nass.

Senator **NASS:** Thank you, Madame President. The answer, I think, was originally around \$6 million. Just a pittance. It's more indicative of the process we use to account for these. I'm not critical of that because it has saved our goose more than once, the fact that we are pretty conservative about how we do this. There are some ideas, Madame President, out there that could reduce this down to around \$1.9 million by doing some restricting, just to give you an idea.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, this is one of those exciting opportunities when I agree with both of my colleagues on Taxation. I agree with my good Chair that this is not the way to create a tax policy. It's not something that we should pin our hopes on. It's not something that we should make the foundation of a new tax structure on. I also agree with my good friend from York. It's interesting. It's innovative. I was impressed by the enthusiasm of the sponsor when she came to the Taxation Committee. I was particularly impressed by how supportive businesses are of our trying this, not adopting it as the fountainhead of our whole tax structure, but of trying it. I actually voted with my colleague from York in the committee. I'm not quite sure how my name appeared on the Ought Not to Pass Report here. I will be voting against the current motion and hoping that we can move forward to try it.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Perry 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 (#188)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, NUTTING, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

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

ABSENT: Senators: GERZOFKY, MARRACHE

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **PERRY** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-400) **READ** and **ADOPTED**, in concurrence.

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

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 Resolve

Resolve, Relating to a Review of International Trade Agreements and the Management of Groundwater Resources
H.P. 913 L.D. 1310
(C "A" H-434)

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.

On motion by Senator **BARTLETT** of Cumberland,
ADJOURNED, to Tuesday, June 9, 2009, at 10:00 in the
morning.