

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

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

Pages 1 - 1159

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

In Senate Chamber
Tuesday
June 9, 2009

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

Prayer by Reverend Dr. Susan Stonestreet, United Christian
Church of Lincolnville.

REVEREND STONESTREET: Join me in the spirit of prayer. Oh God of many names and far beyond any name we could humanly imagine, we give You thanks for waking us up this morning. We give You thanks for this time to come together to do the work of governing for the people of rural, suburban, and urban communities of the great state of Maine. We call upon You to be among this honorable gathering of servants to remind them of their responsibilities and their commitments to the least among us, the richest among us, the oldest among us, the employed and unemployed among us, and last but certainly not least, the youngest among us, the children who will grow up to become our leaders, our able workers, our heads of families, and yes, our providers and sustainers as we grow old. Your word, which comes in so many rich forms, oh wise God, is addressed to individuals, to communities, to cities, to nations, and to the whole family of nations so that all earth's peoples will become one peoples someday. You will, which we can never know for sure but can always strive to attain, oh justice seeking God, is forsaken whenever we fail to nurture and sustain the dignity and rights and protections of all people in our state, nation, and world. Help these august members of the State Senate of Maine, oh God, to discern with sharp minds and compassionate hearts what You might have them accomplish for all Your people, for all Your children, no matter their age or circumstance. Finally, remind them this morning of the words of the first President of our great country, George Washington. 'May we unite in most humbly offering our prayers and supplications to You, oh God, the great ruler of nations. Enable us all, whether in public or private stations, to perform our several and relative duties properly and punctually, to render our national and state government a blessing to all the people by constantly being a government of wise, just, and constitutional laws, discretely and faithfully executed and obeyed, to protect and guide all individuals and communities as best we can, to promote the knowledge and practice of true government and virtue, and generally to grant unto all people such a degree of temporal prosperity as You alone know to be best.' With Your guidance, oh God, and through the efforts of this great Body of men and women working together for the sake of all Your people in the state of Maine, let them begin again this day. Amen.

Reading of the Journal of Monday, June 8, 2009.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 400

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

June 8, 2009

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

Dear Madame President:

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

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

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

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Nancy S. Perkins of Cornish, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and **ORDERED PLACED ON FILE**.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish a Health Care Bill of Rights"

H.P. 830 L.D. 1205

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-446)**.

Signed:

Senators:
BOWMAN of York
ALFOND of Cumberland

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

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

Signed:

Senator:
McCORMICK of Kennebec

Representatives:
FOSSEL of Alna
WEAVER of York
RICHARDSON of Warren

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-446)**.

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act Regarding Saltwater Recreational Fishing"

H.P. 935 L.D. 1331

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

Signed:

Senator:
RECTOR of Knox

Representatives:
McKANE of Newcastle
KRUGER of Thomaston
MacDONALD of Boothbay
PRESCOTT of Topsham
WEAVER of York
EATON of Sullivan
TILTON of Harrington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-367)**.

Signed:

Senators:
DAMON of Hancock
SULLIVAN of York

Representatives:
PERCY of Phippsburg
ADAMS of Portland

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

Reports **READ**.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (4/2/09) Assigned matter:

JOINT RESOLUTION - memorializing William A. Gormely, of Hampden.

SLS 107

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

Pending - motion by same Senator to **ADOPT**

(In Senate, April 2, 2009, on motion by Senator **PLOWMAN** of Penobscot, **READ**.)

READ.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, I stand before you this morning. Behind me is the Gormely clan that has shown up today to participate in our honoring of Bill Gormely. I met Bill and Terry Gormely in October 1992. It's the kind of day you don't forget. My daughter was lost in the woods behind our house, 65 acres of land, on an October afternoon at 4 o'clock in the afternoon. The first people who arrived, because they have a radio I guess, were Bill and Terry Gormely and their daughter. Since 1992 I've had an undying respect and affection for Bill and Terry. I can't tell you what a loss it's been to our community to lose Bill whose grin was infectious. His work was a joy to him. His children and his family were his inspiration. He was a fine member of the community of Hampden. He also was, for almost forty years, an employee of the DOT. It's amazing. He started at age 20 in 1961. I won't tell you how old I was in 1961 but I wasn't very old. He worked his way up the ladder and eventually became a supervisor. When he retired he was bored so he stopped being our neighbor and moved a little ways across town, which really hurt our feelings on the Patterson Road. His daughter moved in right next door, so we still had Gormely presence. He started building his wife

another house. Unfortunately, Bill became very ill about a year ago. We lost the patriarch of the Gormely family, a fine citizen of the city of Hampden, a dedicated member of his church, and I lost someone who was first a neighbor but then mostly a friend. I lost Bill Gormely. That's not the biggest loss in this room. This family really was a close-knit family. I am very honored that everyone that could come, there are only a few missing, came today. I wish that you would stand and share this moment with them as we honor Bill Gormely. Thank you.

ADOPTED.

Sent down for concurrence.

THE PRESIDENT: The Chair is very pleased to recognize in the rear of the chamber the wife of Bill Gormely, Terry; children, Adam and Kim. Adam is a Lieutenant in the Maine Warden Service. Traci and Paul Murrell with children Meghan and Abby. Christi and Mike Swartz with children Isaac and Eli. Trudy and Russ Richards and Lisa Pangburn. They are the guests of the Senator from Penobscot, Senator Plowman. Would they please stand and accept the greetings of the Maine Senate.

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

NOMINATION - of Nancy S. Perkins of Cornish for appointment to the State Board of Education

Tabled - June 9, 2009, by Senator **BARTLETT** of Cumberland

Pending - **CONSIDERATION**

(In Senate, June 9, 2009, Communication (S.C. 400) from the Committee on **EDUCATION AND CULTURAL AFFAIRS**, **READ** and **ORDERED PLACED ON FILE**.)

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#189)

YEAS: Senators: None

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-292).**)

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

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

ABSENT: Senator: NUTTING

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Nancy S. Perkins** of Cornish for appointment to the State Board of Education was **CONFIRMED**.

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.

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

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

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

After Recess

HOUSE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Alter the Mechanism by which a Political Party is a Qualified Party" H.P. 716 L.D. 1041

Senate called to order by the President.

Report - **Ought to Pass**

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

PAPERS FROM THE HOUSE

Joint Resolution

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

The following Joint Resolution:

H.P. 1044

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

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT NATIONAL GUARD FACILITIES

(In House, June 4, 2009, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED.**)

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress as follows:

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

Report **ACCEPTED**, in concurrence.

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

WHEREAS, stronger investment in upgraded United States National Guard facilities is needed not only for the security of our states and for the military readiness of the nation, but also as a powerful way to create and preserve jobs; and

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

An Act Regarding the Transfer of Licenses for Energy Recovery Facilities

S.P. 551 L.D. 1476 (C "A" S-292)

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

WHEREAS, in today's global environment, our National Guard is called upon far more frequently than in the past for overseas deployments, becoming an operational force whose readiness, training and equipment must be on par with our nation's active duty force; and

WHEREAS, the National Guard provides crucial capabilities to alleviate suffering and help communities recover from damage when disaster strikes and these critical homeland and overseas missions of today's National Guard demand higher readiness and greater capability; and

WHEREAS, the Maine National Guard has deployed 37 units since September 11, 2001 and 2,231 Maine Army National Guard soldiers have been deployed since that time and the Maine Air National Guard flew over 180 missions in 2008; and

WHEREAS, in 2008 the Maine National Guard fulfilled 75 requests for general military support; it supported relief efforts during the May 2008 flood in Aroostook County; the Maine National Guard rendered 1,665 Military Funeral Honors; and the 195th Army Band performed 61 times in over 27 communities across the State; and

WHEREAS, the average age of an Army National Guard facility is 41 years, with 24% being more than 60 years old, and the Maine National Guard has over 300 facilities and training areas throughout Maine; and

WHEREAS, Maine has one of the highest energy costs in the country and therefore retrofitting Maine National Guard facilities would help to reduce energy costs and our country's overreliance on fossil fuels; and

WHEREAS, modernization of our National Guard facilities will put people to work and enhance the quality of life for our troops who regularly train in these facilities; and

WHEREAS, the Maine National Guard contributes over \$150,000,000 to our State's economy through military pay and allowances, civilian payroll and the purchase of goods and services; and

WHEREAS, Army and Air National Guard facilities are not concentrated on large military installations but are instead widely distributed across more than 3,200 communities in America; and

WHEREAS, the average National Guard military construction project is less than half the cost of an active component military construction project so that National Guard facility investments go further and assist communities more broadly; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to respectfully urge and request that President Barack H. Obama request, and the United States Congress authorize and fund, an increase in military construction and facilities maintenance for both the Army and the Air National Guard; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to

the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

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

READ and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Clarify the Application of the Public Works Minimum Wage Laws"
H.P. 584 L.D. 849

Had the same under consideration, and asked leave to report:

That the House **Read** and **Accepted** the Report.

That the Senate **Recede** from **Acceptance** of the Minority **Ought Not to Pass** Report of the Committee on **LABOR**.

That the Senate **Concur with Passage to be Engrossed as Amended by Committee Amendment "A" (H-241)**.

On the Part of the Senate:

Senator JACKSON of Aroostook
Senator DAMON of Hancock
Senator MILLS of Somerset

On the Part of the House:

Representative TUTTLE of Sanford
Representative GILBERT of Jay
Representative CAMPBELL of Newfield

Comes from the House with the Committee of Conference Report
READ and **ACCEPTED**

Report **READ**.

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

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, certainly a refresher is appropriate in regards to what this bill was, is, and what the committee report is. This is a bill that was in the Labor Committee originally for

purposes of applying the prevailing wage concept to all school district construction in the state, including, most pertinently, school districts as well as the State owned institutions. At some point along the way the bill got amended to say that it would only be applying to State funded projects. There would be a prevailing wage requirement on projects like construction at the Maine Maritime Academy, or construction of a school, if we ever build another one, in the unorganized territories. The School of Math and Science, I think, up in Aroostook. In any case, it was an expansion of the notion that there should be a prevailing wage requirement on school construction. We in this Body, in its wisdom, rejected that posture, that position. The Committee of Conference resulted. The outcome of the Committee of Conference is that it essentially invites us to adopt the posture of the other Body and to pass the bill. I remain opposed to that position and believe that the Senate should be as well. That is the reason I stand and ask for a red light on the pending motion. Thank you.

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

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 **JUDICIARY** on Bill "An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters"

H.P. 967 L.D. 1377

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-561)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-561)**.

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

READ ONCE.

Committee Amendment "A" (H-561) **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 Amend the Maine Certificate of Need Act of 2002
H.P. 974 L.D. 1395
(H "A" H-541 to C "B" H-497)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Act

An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment
H.P. 896 L.D. 1293
(H "A" H-543 to C "A" H-522)

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

Senate at Ease.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Join the Interstate Compact on the National Popular Vote"

H.P. 49 L.D. 56

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

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc

Representatives:

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

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

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

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

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS.**

Reports **READ.**

On motion by Senator **SULLIVAN** of York, the Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Unicameral Legislature
H.P. 1000 L.D. 1424

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

Signed:

Senators:

SIMPSON of Androscoggin
JACKSON of Aroostook

COURTNEY of York

Representatives:

HAYES of Buckfield
BEAUDETTE of Biddeford
HARVELL of Farmington
CLARK of Easton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-471).**

Signed:

Representatives:

BOLAND of Sanford
BROWNE of Vassalboro
WILLETTE of Presque Isle
COTTA of China
KAENRATH of South Portland
SCHATZ of Blue Hill

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-471).**

Reports **READ.**

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

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

Ten members of the Committee on **JUDICIARY** on Bill "An Act To Enact the Uniform Prudent Management of Institutional Funds Act"

H.P. 981 L.D. 1402

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-503).**

Signed:

Senators:

BLISS of Cumberland
HOBBINS of York
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick
BRYANT of Windham
DILL of Cape Elizabeth
KRUGER of Thomaston
NASS of Acton
BEAULIEU of Auburn
CROCKETT of Bethel

Two members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Representatives:

CLEARY of Houlton
STEVENS of Bangor

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-504)**.

Signed:

Representative:

HILL of York

(Representative MITCHELL of the Penobscot Nation - of the House - supports Report "A", **Ought To Pass as Amended by Committee Amendment "A" (H-503)**.)

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) AS AMENDED BY HOUSE AMENDMENT "A" (H-559)** thereto.

Reports **READ**.

On motion by Senator **BARTLETT** of Cumberland, the Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-503) **READ**.

House Amendment "A" (H-559) to Committee Amendment "A" (H-503) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-503) as Amended by House Amendment "A" (H-559) thereto, **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

ENACTORS

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

Emergency Measure

An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for One Year
H.P. 225 L.D. 285
(C "A" H-352)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 3 Senators having voted in the negative, and 31 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:

COMMUNICATIONS

The Following Communication: H.C. 205

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

June 9, 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 adhere to its previous action whereby Bill "An Act To Designate Sales Tax Holiday Weekends" (H.P. 792) (L.D. 1148) Failed of Passage to be Engrossed as amended by Committee Amendment "A" (H-400).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/8/09) Assigned matter:

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

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

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-481) AS AMENDED BY SENATE AMENDMENT "A" (S-305)** thereto, in **NON-CONCURRENCE**

(In House, June 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-481).**)

(In Senate, June 8, 2009, on motion by Senator **PERRY** of Penobscot, Senate Amendment "A" (S-305) to Committee Amendment "A" (H-481) **READ** and **ADOPTED.**)

On motion by Senator **PERRY** of Penobscot, Senate Amendment "B" (S-314) to Committee Amendment "A" (H-481) **READ.**

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

Senator **PERRY:** Thank you, Madame President. This is a revised version of the Senate Amendment I presented the other day. I'll tell you briefly about it. It's a business and consumer friendly amendment that I believe everyone is in agreement on. It simply says that movie theaters are not considered chain restaurants. It extends from 60 to 90 days the amount of time an item can be on a menu before the caloric information needs to be posted. It makes clear that this law doesn't create any additional rights or liabilities to anyone, and does not allow municipalities to adopt their own ordinances that go beyond the scope of the State ordinance. That's what is in it and everyone seems to be in full agreement. I look forward to getting this bill out of the Senate. Thank you.

On motion by same Senator, Senate Amendment "B" (S-314) to Committee Amendment "A" (H-481) **ADOPTED.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "A" (S-305) to Committee Amendment "A" (H-481) and **INDEFINITELY POSTPONED** same.

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

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, I thought about this bill over the weekend. For once I actually wrote a few thoughts down. I'm going to share them with you. Last week we were lucky enough to have some information shared with us on this bill from the Senator from Kennebec, Senator Marraché, who is also a doctor. It was very helpful for me to know that the average woman's daily caloric intake should be about 2,000 calories and a man's should be about 2,500. As I thought about this I realized over the weekend that there is nothing in the bill that says that this should be posted as part of the information that's going to be given. I asked a few people what they thought they should be able to take in a day for calories. I got 6,000 and 3,000 and a lot of I don't know. If I'm

looking at a Big Mac versus a double quarter pounder with cheese, the Big Mac is a good choice if I think that I'm going to have 6,000 calories. I guess when you are imparting information without the knowledge behind you to know exactly what it means, that perhaps we should refine some of the suggestions that are made at the counter. If you will bear with me, this is the new State mandated version of what the person at the counter will say to you.

Good afternoon. Welcome to the Evil Empire Fast Food chain. My name is Debbie. I'll be helping you become more informed about your caloric intake choices as mandated by the State of Maine. I would direct your attention to the wall board listing the caloric values of all of our products. In order for you to make intelligent choices, please remember that the maximum number of calories that should be consumed by a woman each day is 2,000 and for you, sir, it is 2,500. Your children should range between 1,500 and 2,000 based on their pediatrician's recommendations. I would caution you that one of your children appears to have exceeded their optimal BMI and you should take care to adjust their intake intelligently but firmly. In addition, I should caution you that our products may or may not exceed the information as posted by up to 10% without penalty of law. However, please be aware that this potential over consumption of calories, whether realized or not, will factor into your total caloric intake. A 10% variation can be compounded on a daily basis and over the span of the year may increase your BMI. I'm sorry, BMI is actually your body mass index and that term is more fully explained on the back of your receipt. I must also caution you that our caloric information does not take into account any condiments you may apply to the products after you have taken possession of them. Please retain your receipt and note carefully the amount of any condiments you may apply once you take possession of our product. In addition, you should not share or sample the meals of others in your party. This unhealthy habit also increases your caloric intake. Please remember that you must present your receipt and caloric intake papers to our State mandated and certified caloric intake counselor. Our counselor will ensure that you have accurately recorded your meal and any additional calories you may have added. I see there are four of you today, so please have your papers ready to expedite your post-meal evaluation. At that time our certified caloric intake counselor will verify your choice, your caloric intake for today's, and also certify that you received and understood all of the nutritional information as mandated by State law. Finally, please be assured that your caloric intake journal is and, until further mandate by the State of Maine, will remain confidential under all the provisions of HIPA.

That, ladies and gentlemen, is how you change behavior.

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

Senator **BRANNIGAN:** Thank you, Madame President. I want you to know that the very clever and humorous explanation is not part of the bill or part of the amendment that we are going to be voting on. It is clever, but the fact is that diabetes, the scourge that's going on now, is not humorous. I hope you will vote in favor of this bill. It is a small step, as the Senator from Somerset, Senator Mills, so aptly put it last week. It's part of a whole effort to gain on the problem of diabetes. Thank you.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (H-481) as Amended by Senate Amendment "B" (S-314) thereto. 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 (#190)

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

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

ABSENT: Senator: BLISS

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, Committee Amendment "A" (H-481) as Amended by Senate Amendment "B" (S-314) 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-481) AS AMENDED BY SENATE AMENDMENT "B" (S-314)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

Senator **DAMON** of Hancock was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, until Wednesday, June 10, 2009, at 10:00 in the morning, in memory of and lasting tribute to William A. Gormely of Hampden.