

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

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

In Senate Chamber
Thursday
June 11, 2009

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

Prayer by Reverend Elsa Peters, First Congregational Church,
UCC of South Portland.

REVEREND PETERS: I serve in a United Church of Christ congregation in South Portland that has recently experienced a great deal of loss. In the past few weeks I have spent much of my time talking with families about their loved ones. It's a time to reflect on what really matters most in life; finding happiness, shelter, good food, meaningful work, community, and the ability to provide for your loved ones. Yet too often this conversation doesn't happen until the life of their loved one has ended, leaving the family with confused and mixed feelings. I hold their hands and pray with them while standing beside their loved one's grave to recite these words from the wisdom of Ecclesiastes:

For everything there is a season and a time for every purpose under heaven. A time to be born, a time to die. A time to plant and a time to reap. A time to weep and a time to laugh. A time to mourn and a time to dance. God has made everything beautiful in its own time and has placed eternity in our minds so that we cannot discern what God is doing from beginning to end. Whatever God has done endures forever. Nothing can be added to it nor taken from it.

The wisdom of these words resonate with my spirit as the season changes ever so slowly into summer and life at church begins to slow down, as it does for each of you in the end of this legislative season. It is my honor to stand beside you in this ending with prayer. You, too, may feel confused and have mixed feelings. You are welcome to hold hands or not as we gather our hearts together in the spirit of prayer.

Holy One who is present in our every season, Holy One who changes with us as the seasons change, Holy one who is as weary as we are after this long season, grant us patience to do the work that we have been called to do in the service to our neighbors, friends, and family in Maine so that this place may truly continue to be the way life should be. Celebrate our successes and share in our frustrations in the awareness that there is always more justice to be done, another budget to be balanced, and another life to be improved. As You have been present in our every season, be present here now, oh Holy One, in these rooms, in these halls, in the words we share, and the perspectives we offer so that we can find that everything is indeed beautiful in its own time. When the day is done, Holy One, give us enough rest to create beauty again. In the name of all that is holy we pray. Amen.

Reading of the Journal of Wednesday, June 10, 2009.

Doctor of the day, Dr. Elisabeth Fowlie-Mock, MD, MPH, FAAFP of Holden.

Off Record Remarks

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1047

ORDERED, the Senate concurring, that Bill, "An Act To Update Department of Defense, Veterans and Emergency Management Laws," H.P. 931, L.D. 1327, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

SECOND READERS

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

House

Bill "An Act To Improve Opportunity in the Maine Woods" (EMERGENCY)

H.P. 1049 L.D. 1492

READ A SECOND TIME.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-333) **READ**.

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

Senator **JACKSON:** Thank you, Madame President. This is an amendment to what has come to be known as the Irving bill. It allows the Department of Labor to release some information from some of the logging forms that they have been doing for the last three or four years, which is important to the logging industry and that is why I presented it.

On motion by same Senator, Senate Amendment "A" (S-333) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-333), in **NON-CONCURRENCE**, without reference to a Committee.

Ordered sent down forthwith for concurrence.

Senate

Bill "An Act To Protect Maine Citizens and Franchised New Car and Truck Dealers" (EMERGENCY)

S.P. 571 L.D. 1491

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (6/9/09) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-446)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - June 9, 2009, by Senator **BOWMAN** of York

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

(In House, June 5, 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-446)**.)

(In Senate, June 9, 2009, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-446) **READ**.

On motion by Senator **BOWMAN** of York, Senate Amendment "B" (S-332) to Committee Amendment "A" (H-446) **READ**.

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

Senator **BOWMAN:** Thank you, Madame President. L.D. 1205 was another interesting, educational, challenging, contentious, and very beneficial bill. I've worked with my committee and legislative colleagues, department leadership, and stakeholders to craft this amendment. The amendment addresses the three contentious issues associated with this bill. The first issue is the medical loss ratio and the amendment eliminates the changes to the existing medical loss ratio. The second is that it addresses the insurer notification of policy cancellation and reinstatement in cases involving non-payment and the resolution to eliminate the second notification, which was originally required by the bill, has been resolved by providing an 800 number in lieu of the second notification. The third involves the EOB, or explanation of benefits, which many of you, especially if you are my age, are familiar with. It clarifies the requirement for the Superintendent of Insurance to work with stakeholders and leadership at the national level in determining EOB minimum requirements and information. Not everybody is fully satisfied with this amendment, but my experience tells me that this is the sign of good negotiation. I strongly urge you to support Senate Amendment "B" to Committee Amendment "A" to L.D. 1205. Thank you.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, I was not on Committee Report "A" when it left the committee but I really appreciate the Senate Chair, the Senator from York, Senator Bowman, for bringing this amendment forward. It satisfies my major concerns with the bill as well as those of many others. I urge your support. Thank you very much.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, having served on this committee for more than a year or so, I think this is a great compromise. I think that the Senator from York, Senator Bowman, did an excellent job on this. This amendment has my full support and I would love to see this unanimously voted. Thank you very much.

On motion by Senator **BOWMAN** of York, Senate Amendment "B" (S-332) to Committee Amendment "A" (H-446) **ADOPTED**.

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 Chair noted the absence of the Senator from Aroostook, Senator **SHERMAN** and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#197)

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

NAYS: Senators: None

EXCUSED: Senator: SHERMAN

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (H-446) as Amended by Senate Amendment "B" (S-332) 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-446) AS AMENDED BY SENATE AMENDMENT "B" (S-332)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/9/09) Assigned matter:

HOUSE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act Regarding Saltwater Recreational Fishing"

H.P. 935 L.D. 1331

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-367)** (4 members)

Tabled - June 9, 2009, by Senator **DAMON** of Hancock

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, June 8, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 9, 2009, Reports **READ**.)

Senator **DAMON** of Hancock moved the Bill and accompanying papers be **COMMITTED** to the Committee on **MARINE RESOURCES**, in **NON-CONCURRENCE**.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just wanted to have the folks in this chamber understand what will happen if we make this commitment along with the other one that we made yesterday. Yesterday I circulated an e-mail correspondence from the National Oceanic and Atmospheric Administration's Gordon Colvin stating that as of January 1, 2010 the federal government will institute a federal registry and the people that we represent will be in that federal registry. What I think we really need to understand is what the ramifications of that action will be. There will be an established federal registry in the state of Maine. As of January 1, 2011 that same entity can then charge a \$25 fee. If the State of Maine adopts nothing our constituency will be paying \$25 to fish recreationally in the salt water. The Department of Marine Resources has opposed the bill we had yesterday and supported the bill that is in front of us. They fought tenaciously against the registry and for this bill. They will get it both ways if we do this. They will have defeated the no-cost registry. They will have their bill and, if nothing is done, most likely will get most of the money from the \$25 fee that will be paid to the federal government and reimbursement will go to the DMR to implement the federal registry. We will have set in motion a rejection of either a no-cost registry or a license and we will put into motion a federal registry that will one day cost our constituency and could very well achieve what most of us are opposed to. Thank you, Madame President.

Same Senator requested a Roll Call.

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

Senator **BARTLETT:** Thank you, Madame President. I just wanted to briefly thank the Senator from Lincoln, Senator Trahan, for providing this handout. It does, I think, clarify what had been confusing. It is true that in 2010 the federal registry will go into effect but there will be no fee. You will get a one-year permit, as it were, for the registry but there would be no fee. The fee that we are concerned about would not take effect until January 1, 2011 when those folks went to renew. By committing this back to committee we still have time next year to come forward and find the best way forward for the citizens of Maine.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I belabor this. In fact the bill that we had committed to the Marine Resources Committee yesterday was an attempt to satisfy the edict from the federal government

that the good Senator from Lincoln, Senator Trahan, has talked about. What it failed to do was provide funding for a very expensive program. The bill that we are now voting on to commit back to the committee also is an attempt to do that same thing, satisfy that federal requirement that we have a registry. It has an opportunity to pay for it. Both of the provisions, the one yesterday and the one today, have associated costs with them. We have been led to believe that one of them is free and the other one isn't. That's entirely incorrect. By referring both of these bills back to the Marine Resources Committee it is my firm hope that we will be talking with all interested parties and come up with a program, a registry, a licensure, or whatever it is that will be agreeable to everyone and will satisfy the government needs and will have Maine be able to move forward. Failing to do that would have the consequence that the Senator describes. That would be that the federal government would be assessing a fee that will go directly to them and not to us. This is the very argument that I had used in this chamber on many occasions to say that we must do something. I think we are now starting to understand that we must do something. This is our attempt to do it. I urge you to support the pending motion. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. I thank the Majority Leader for his comments but I would like to remind him that in the bills that were before us there were exemptions to, or above and beyond, what the federal registry would have required, including commercial smelt fishing shacks and all their rentals. I would remind folks that, if they had never done that, there are usually three cycles each night. In some cases, hundreds of people participate three times a night in a smelt fishery. In my legislation they would have been exempted from registering. Under the federal registry they are not. You will be getting phone calls from those folks. They will not be allowed to go any longer without participating in that federal registry. As far as paying for this legislation, had I been given an opportunity to debate this, I had ways of paying for this. One of them was through the Congressional delegation. Without us taking action they now no longer have any direction from this Legislature on the policy you wanted to adopt. We could have secured federal funding to pay for it, but this is no longer an option. I have nothing to show them. I believe they were standing by ready, willing, and able, and I think anxious, to assist the State of Maine for funding to do exactly what is in that bill. Now they have nothing to go by so we will get nothing from them. The only thing that we can do now, ladies and gentlemen, is to adopt a license fee. Those folks that supported that lost that argument in committee. They did not allow me an opportunity to even offer up an option. This action has taken everything off the table. In my opinion, the only option you will see next year is the one just described by the previous speaker and that is to adopt a license fee. We had options. They have now been taken off the table.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Commit the Bill and accompanying papers to the Committee on

Marine Resources. 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 (#198)

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

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

EXCUSED: Senator: SHERMAN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **COMMIT** the Bill and accompanying papers to the Committee on **MARINE RESOURCES**, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/9/09) Assigned matter:

COMMITTEE OF CONFERENCE REPORT - on Bill "An Act To Clarify the Application of the Public Works Minimum Wage Laws" H.P. 584 L.D. 849

Report - the House **Read** and **Accept** 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)**.

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

Pending - **ACCEPTANCE OF REPORT**, in concurrence (Roll Call Ordered)

(In House, June 9, 2009, Report **READ** and **ACCEPTED**.)

(In Senate, June 9, 2009, Report **READ**.)

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

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, I rise just to remind people of what this bill was about. It would impose the prevailing wage requirements for projects that are basically State projects to build schools in certain locations like the unorganized territories, Maine Maritime Academy, and the like. I believe it carries a fiscal note. It just seems to me that this is not the right time to pass a bill of this sort. The amount of the fiscal note escapes me, but in any case I don't think we should be imposing greater costs on construction at this time.

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

Senator **JACKSON**: Thank you, Madame President. Ladies and gentlemen of the Senate, for the Senator from Somerset, Senator Mills, it escapes you because it is undetermined. That is certainly a good reason for not having the actual number. Obviously there is possibly some cost. It is undetermined at this time. I think we debated this bill a couple of times. The major issue is, I guess, that you can argue that you want to have people who are a known commodity building the schools, in this case in the unorganized territories, Baxter School, Limestone Magnet School, or schools that the State has 100% control over. I would argue that most of the time with prevailing wage rates, the other people who are bidding on it and in the game know what the actual costs are and know what needs to be done. We've had cases where, with some schools that have been built, there were no prevailing wage rates. The lowest bidder got the job and those school systems had to go back later on and redo faulty, shoddy work. I just think the people that consistently do this type of work deal with the prevailing wage rates in a lot of different occupations. Transportation networks are one of them. Under the Davis-Bacon Act, if there is any federal money you have to use the prevailing wage rates. Usually those projects are done right. That's what we want to make sure is done with these schools. Another side note to it, if there is any stimulus funds used in the construction of these projects you have to use prevailing wage rates or you can't use the stimulus money. The committee got together and reported out what you see. Myself, I'm totally behind the prevailing wage rates. That is why I was always in favor of the bill. I think it just makes good sense, certainly in construction that affects our children. I'd ask that you accept the report.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER**: Thank you, Madame President. I'm just getting some new information and I would appreciate it if somebody could confirm this information. One of the reasons why I voted in opposition is that I'm very much in favor, in general, of paying a prevailing wage but I was concerned about a large fiscal note on this bill. Now I'm finding that this bill may only apply specifically to the Baxter School and I was wondering if somebody might be able to answer that because it would help me

make a decision. I don't often change my vote, but in this case I may be interested in doing that based on this information.

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

Senator **JACKSON**: Thank you, Madame President. As it has been said, the bill applies to the Baxter School, Limestone Magnet School, and any unorganized territory schools, of which there are very few. I don't know the exact number, but it's less than ten. I believe the Senator from Somerset, Senator Mills, actually had that number when we had the conference. There are very few unorganized schools.

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

Senator **PLOWMAN**: Thank you, Madame President. Men and women of the Senate, I would like to address several points. I'll try to take them in order. First of all, when you apply prevailing wage to the bid process the bid process will continue to go to the lowest bidder. There will not be anyone who will be bidding without factoring in the prevailing wage. Therefore, it does not provide any assurance that you are getting a better contractor. Second of all, this does apply only to projects totally paid for with State funds. The other projects are also paid by taxpayers, but it is split between your local community and the State coffers. Every one of these are taxpayer dollars. The only difference is the schools that are in here come out of only one of your pockets and the other schools, whose superintendents defended their right to have local control and defended their right to keep their costs down, asked to not be in this because they face those taxpayers every day. It's a one pocket project versus a two pocket project.

The last time we debated this I shared with you a story about a building that was going to be done in Massachusetts. It was bid shortly before the stimulus package came out. It qualified for federal stimulus funds. It was rebid and came back from a \$3 million original bid to a \$6 million bid. Attaching prevailing wages to these State projects does one thing, it spends our tax dollars faster. It does not assure any better construction. It has no effect on the quality of work. Prevailing wage, if I could describe it to you, is sort of like trying to figure out the school funding formula. Every year the prevailing wage increases based on an incredible number of factors. It has nothing to do with the cost of living. It has nothing to do with the CPI. It has nothing to do with inflation. It has to do with a series of reports from companies reporting what they pay for wages. The information is then pulled together and factors into just about the highest amount you could charge. If that's what you want to do to the taxpayers of the state of Maine as we sit and whittle \$15,000 here and \$100,000 there then you should vote to put prevailing wages on these projects. If you want to keep somewhat in line with what we've done since January, which is to try to show some fiscal restraint and prove to the people of the state of Maine that we have to make prudent but painful decisions, then you want to say no to this bill. Thank you very much.

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

Senator **HASTINGS**: Thank you, Madame President. Ladies and gentlemen of the Senate, there have been quite a few questions about the fiscal note and I called it up here. The Senator from Aroostook, Senator Jackson, indicated that this would apply only to the Baxter School and the Magnet School. I wonder if we should look at this fiscal note again. Reading from the fiscal note it indicates that this legislation may increase the total State and local costs of major capital school construction projects and local repair projects with a cost of \$50,000 or more if the prevailing wage is higher than the wages and benefits currently being paid by school administrative units for construction projects. It doesn't have a number because they don't know the impact of this legislation on State and individual school administrative units. It cannot be determined at this time. I'm presuming because they don't know how many projects are underway and what the bid would be otherwise. It's very clear to me, in reading this fiscal note, that we are imposing this on all of our State school building projects and all of our local building projects as well. Each SAD that has a project in the works or underway after this law is enacted will be subject to its terms. In these economic times and our difficulty in constructing schools and finding the funding for it, if you enact this you will be imposing this law on your local SAD and its future projects. Thank you, Madame President.

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

Senator **BARTLETT**: Thank you, Madame President. I rise in support of the pending motion. Looking at the fiscal note, I just reviewed it as well. It does appear to be erroneous. This bill is intended to apply to just the State schools, therefore there should not be a component for local costs. What I would urge this Body to do is to go forward, accept this report, and allow Appropriations to work with the Fiscal Office to clarify that fiscal note. It appears to me that the fiscal note is erroneous but the best venue to vet that, to clarify that, and to make changes to that is, I believe, in the Appropriations Committee based on the outstanding work they have been doing as they run through the Appropriations Table.

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

Senator **JACKSON**: Thank you, Madame President. I think that fiscal note was from the original bill. I really can't speak to why it is still on there. We obviously amended it to include just the unorganized territory schools, Limestone Magnet School, and the Baxter State School. That's what the amendment talks about. That fiscal note, obviously, talks about all schools throughout the state. The committee obviously knew that this was way out of hand so we scaled it back. I disagree with the Senator from Penobscot, Senator Plowman, on prevailing wage rates. I've never worked on a construction job that had prevailing wage rates or anything like that, but I've worked in a lot of logging occupations. It's a continuous fight with prevailing wage rates. They work somewhat different in construction. In my occupation you can bring in foreign labor and the only real argument you have is the prevailing wage rate to establish any type of fair rate because a lot of the foreign labor that is coming in can obviously do it cheaper for a number of reasons, healthcare or exchange rate and things like that. If you don't have a floor to at least say

you have to pay this amount anyone here in Maine cannot do it for that rate at all. If you don't have a floor what can happen is one guy can go and tell you they can give you minimum wage and another guy can go and say they will give you \$15 an hour. There is nothing there. There is no way to argue that you are being unfairly used and we have that problem all the time in the logging industry. I've seen it first hand with many people that have been turned away so that cheaper labor can come in. Like I said, I can't say that I've seen it in construction because I'm not a construction worker, but I do know the problems it causes in the logging industry. I think this is a good thing to make sure that Maine people have fair wages whenever they work on these jobs and I do believe that it gets the better contractors doing these jobs. I'd ask that you support it. I do think that we have a problem, at least on the internet, with the fiscal note. That fiscal note does not apply to what the actual bill is now. I will get confirmation of that throughout the day here.

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

Senator **SCHNEIDER**: Thank you, Madame President. Men and women of the Senate, I would very much appreciate if we took a very small amount of time to talk to the Fiscal Office to get clarity on the fiscal note.

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

The Chair laid before the Senate the following Tabled and Later (6/10/09) Assigned matter:

Emergency Measure

Resolve, To Create a Working Group To Study Landlord and Tenant Issues

H.P. 747 L.D. 1080
(H "B" H-546 to C "A" H-489)

Tabled - June 10, 2009, by Senator **BARTLETT** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence (Roll Call Requested)

(In Senate, June 8, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-489) AS AMENDED BY HOUSE AMENDMENT "B" (H-546)** thereto, in concurrence.)

(In House, June 10, 2009, **FINALLY PASSED**.)

On motion by Senator **BARTLETT** of Cumberland, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-489) AS AMENDED BY HOUSE AMENDMENT "B" (H-546)** thereto, 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-489) as Amended by House Amendment "B" (H-546) thereto, 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** House Amendment "B" (H-546) to Committee Amendment "A" (H-489) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "A" (S-319) to Committee Amendment "A" (H-489) **READ** and **ADOPTED.**

Committee Amendment "A" (H-489) as Amended by Senate Amendment "A" (S-319) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-489) AS AMENDED BY SENATE AMENDMENT "A" (S-319) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

Off Record Remarks

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

ENACTORS

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

Emergency Resolve

Resolve, To Stimulate the Maine Economy by Allowing the Federal First-time Home Buyer Tax Credit To Be Used at Closing of a Real Estate Transaction

H.P. 1036 L.D. 1483
(C "A" H-569)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Acts

An Act To Prohibit the Delivery of Tobacco Products to Minors
H.P. 850 L.D. 1230
(S "B" S-308 to C "A" H-438)

An Act To Enact the Uniform Prudent Management of Institutional Funds Act
H.P. 981 L.D. 1402
(H "A" H-559 to C "A" H-503)

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

An Act To Increase Access to Nutrition Information
H.P. 878 L.D. 1259
(S "B" S-314 to C "A" H-481)

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 Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, clearly I think people are aware that I am not in favor of this piece of legislation, however on enactment I plan to support it. I've already lost. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. 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 (#199)

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

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

EXCUSED: Senator: SHERMAN

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, 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 Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws
H.P. 1024 L.D. 1473
(C "A" H-570)

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

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

Emergency Measure

Resolve, To Establish the Task Force on Kinship Families
H.P. 770 L.D. 1115
(C "A" H-147)

Tabled - May 12, 2009, by Senator **BARTLETT** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 5, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, May 7, 2009, **FINALLY PASSED**.)

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

On further motion by same Senator, 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-147), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-320) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-147) AND SENATE AMENDMENT "A" (S-320), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

Emergency Measure

An Act To Amend the Laws Governing the Maine Children's Growth Council
H.P. 671 L.D. 969
(C "A" H-159)

Tabled - May 13, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, May 12, 2009, **PASSED TO BE ENACTED**.)

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

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

On further motion by same Senator, Senate Amendment "A" (S-318) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-159) AND SENATE AMENDMENT "A" (S-318), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

Emergency Measure

Resolve, To Establish the Study Commission Regarding Teachers' Compensation

H.P. 367 L.D. 522
(C "A" H-420)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, June 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.)

(In House, June 4, 2009, **FINALLY PASSED**.)

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

On further motion by same Senator, 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-420), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-317) to Committee Amendment "A" (H-420) **READ** and **ADOPTED**.

Committee Amendment "A" (H-420) as Amended by Senate Amendment "A" (S-317) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-420) AS AMENDED BY SENATE AMENDMENT "A" (S-317) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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.

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

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

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

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 13, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-100) AS AMENDED BY SENATE AMENDMENT "B" (S-151)** thereto.)

(In House, May 21, 2009, **PASSED TO BE ENACTED**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#200)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRYANT, COURTNEY, CRAVEN, DAMON, DIAMOND, GERZOFISKY, GOODALL, HOBBS, JACKSON, MARRACHE, MCCORMICK, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, SIMPSON, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BRANNIGAN, GOOLEY, HASTINGS, MILLS, NASS, ROSEN, SCHNEIDER, SMITH, WESTON

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Emergency Measure

An Act Regarding Maine's Energy Future
H.P. 1038 L.D. 1485
(H "A" H-540)

Tabled - June 10, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, June 8, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-540)**, in concurrence.)

(In House, June 10, 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 PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. Members of the Senate, just a couple of brief comments. I will be voting in opposition to the bill and I just simply want to explain why. I understand the historic and comprehensive nature of this piece of legislation. It creates a major new entity. It has huge resources. It has an ambitious goal and object ahead. However it does have one component that I just simply cannot support and that is the expansion of the new borrowing that will be taking place under the guidance of the Maine State Housing Authority. The authorization of \$200 million of new borrowing with an initial roll out of \$30 million and an obligation of \$300 million of real estate transfer tax funds in the next year. Those of us that are on the Appropriations Committee who will soon be starting our Summer work in July to look for savings are clearly looking ahead to the next biennium. This presents us with an immediate challenge in the next biennium of approximately \$7 million of diverted General Fund revenue that otherwise I think we will sorely need. At this time of diminishing revenues and a weakening economy I simply cannot support the future diversion of \$7 million from the General

Fund to support this level of borrowing that has not gone before the voters of Maine. 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, I just want to add my voice to those last few sentiments expressed by the Senator who represents us on the Appropriations Committee. We have, in addition to this form of revenue borrowing that is proposed in this comprehensive energy bill, in the budget increased the Government Facilities Authority borrowing by some \$61 million and added to it the authority to borrow another \$6.5 million of existing authority. We really have a \$67.5 million revenue bond in the budget for the Government Facilities Authority for various courthouse projects. We have GARVEE bonds of \$100 million outstanding and another \$50 million proposed in the highway budget. We have \$50 million outstanding in TransCap revenue bonds already with another \$105 million going out in a week and \$55 million more authorized. We have an aggregate revenue bond package outstanding and authorized of I would say \$400 million to \$500 million when you add up TransCap, GARVEE, and the Government Facilities Authority. It's quite a bit and it seems to me that at the very least we should hold this bill until we arrive at a general obligation bond package, which we have not yet done in this session. It seems to me all of this is of a piece and the passage of this bill will have eminent implications for the 125th Legislature and how it meets its obligations. For that reason I wish to support the Senator from Hancock, Senator Rosen, and his sentiments about voting against this bill at this time.

THE PRESIDENT: The pending question before the Senate is Enactment. 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 (#201)

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

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

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with 10 Senators having voted in the negative, and 23 being less than two-thirds of the entire elected Membership of the Senate, **FAILED ENACTMENT, in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature
H.P. 123 L.D. 144
(H "A" H-252 to C "A" H-135)

Tabled - June 4, 2009, by Senator **CRAVEN** of Androscoggin

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY HOUSE AMENDMENT "A" (H-252)** thereto, in concurrence.)

(In House, June 3, 2009, **FAILED FINAL PASSAGE.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY HOUSE AMENDMENT "A" (H-252)** thereto, 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-135) as Amended by House Amendment "A" (H-252) thereto, 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** House Amendment "A" (H-252) to Committee Amendment "A" (H-135) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "A" (S-322) to Committee Amendment "A" (H-135) **READ** and **ADOPTED.**

Committee Amendment "A" (H-135) as Amended by Senate Amendment "A" (S-322) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY SENATE AMENDMENT "A" (S-322) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

An Act To Amend the Laws Governing Tournament Games
H.P. 158 L.D. 193
(C "A" H-84)

Tabled - May 5, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-84)**, in concurrence.)

(In House, April 30, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-84)**, 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-84), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-323) to Committee Amendment "A" (H-84) **READ** and **ADOPTED.**

Committee Amendment "A" (H-84) as Amended by Senate Amendment "A" (S-323) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-84) AS AMENDED BY SENATE AMENDMENT "A" (S-323) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 14, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-130) AS AMENDED BY SENATE AMENDMENT "B" (S-164)** thereto, in concurrence.)

(In House, May 20, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-130) AS AMENDED BY SENATE AMENDMENT "B" (S-164)** thereto, 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-130) as Amended by Senate Amendment "B" (S-164) thereto, in concurrence.

On further motion by same Senator, Senate Amendment "C" (S-324) to Committee Amendment "A" (H-130) **READ and ADOPTED.**

Committee Amendment "A" (H-130) as Amended by Senate Amendments "B" (S-164) and "C" (S-324) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-130) AS AMENDED BY SENATE AMENDMENTS "B" (S-164) AND "C" (S-324) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles
S.P. 135 L.D. 393
(C "A" S-132)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132).**)

(In House, May 18, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-132).

On further motion by same Senator, Senate Amendment "A" (S-325) to Committee Amendment "A" (S-132) **READ and ADOPTED.**

Committee Amendment "A" (S-132) as Amended by Senate Amendment "A" (S-325) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-132) AS AMENDED BY SENATE AMENDMENT "A" (S-325) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

An Act Regarding Alcoholic Beverage Tastings
H.P. 353 L.D. 498
(H "C" H-545 to C "A" H-281)

Tabled - June 10, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, June 8, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281) AS AMENDED BY HOUSE AMENDMENT "C" (H-545)** thereto, in concurrence.)

(In House, June 10, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281) AS AMENDED BY HOUSE AMENDMENT "C" (H-545)** thereto, 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-281) as Amended by House Amendment "C" (H-545) thereto, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-326) to Committee Amendment "A" (H-281) **READ** and **ADOPTED.**

Committee Amendment "A" (H-281) as Amended by Senate Amendment "A" (S-326) and House Amendment "C" (H-545) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281) AS AMENDED BY SENATE AMENDMENT "A" (S-326) AND HOUSE AMENDMENT "C" (H-545) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention

H.P. 447 L.D. 633
(C "A" H-201)

Tabled - May 13, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201)**, in concurrence.)

(In House, May 12, 2009, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201)**, 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-201), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-327) to Committee Amendment "A" (H-201) **READ** and **ADOPTED.**

Committee Amendment "A" (H-201) as Amended by Senate Amendment "A" (S-327) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201) AS AMENDED BY SENATE AMENDMENT "A" (S-327) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

Emergency Resolve

Resolve, To Expand Access to Renewable Energy Programs
H.P. 581 L.D. 845
(C "A" H-158)

Tabled - May 12, 2009, by Senator **DIAMOND** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 5, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-158)**, in concurrence.)

(In House, May 7, 2009, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-158)**, 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-158), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-328) to Committee Amendment "A" (H-158) **READ** and **ADOPTED.**

Committee Amendment "A" (H-158) as Amended by Senate Amendment "A" (S-328) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-158) AS AMENDED BY SENATE AMENDMENT "A" (S-328) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

Emergency Resolve

Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings

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

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 18, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-155).**)

(In House, May 21, 2009, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-155).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-155).

On further motion by same Senator, Senate Amendment "A" (S-329) to Committee Amendment "A" (S-155) **READ** and **ADOPTED.**

Committee Amendment "A" (S-155) as Amended by Senate Amendment "A" (S-329) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-155) AS AMENDED BY SENATE AMENDMENT "A" (S-329) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

Resolve

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

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

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**, in concurrence.)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**, 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-353), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-330) to Committee Amendment "A" (H-353) **READ** and **ADOPTED.**

Committee Amendment "A" (H-353) as Amended by Senate Amendment "A" (S-330) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353) AS AMENDED BY SENATE AMENDMENT "A" (S-330) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413)**, in concurrence.)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413)**, 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-413), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-337) to Committee Amendment "A" (H-413) **READ** and **ADOPTED.**

Committee Amendment "A" (H-413) as Amended by Senate Amendment "A" (S-337) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-413) AS AMENDED BY SENATE AMENDMENT "A" (S-337) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

Emergency Measure

An Act Regarding the Pay of Tribal Representatives
S.P. 512 L.D. 1428
(C "A" S-256)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256).**)

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

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-256).

On further motion by same Senator, Senate Amendment "A" (S-331) to Committee Amendment "A" (S-256) **READ** and **ADOPTED.**

Committee Amendment "A" (S-256) as Amended by Senate Amendment "A" (S-331) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-256) AS AMENDED BY SENATE AMENDMENT "A" (S-331) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

SENATE PAPERS

Bill "An Act To Clarify the Rights of Bondholders and Noteholders in the Event a School Administrative Unit with Outstanding Bonds or Notes Is Dissolved or Is No Longer Authorized by Law"
S.P. 572 L.D. 1493

Presented by Senator **ALFOND** of Cumberland.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

READ ONCE, without reference to a Committee.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Senate at Ease.

Senate called to order by the President.

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

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

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

After Recess

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Implement Tax Relief and Tax Reform"
H.P. 1051 L.D. 1495

Committee on **TAXATION** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

READ ONCE, without reference to a Committee.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, this is tax reform once again. It is my intention to be brief but eloquent and informative. I'm just going to run through the changes. I think we heard all the pieces of L.D. 1088 the other day. I just want to go over some of the changes in this new bill. L.D. 1088 eliminates the alternative minimum tax but it did not eliminate a credit we had on the books that was a companion piece, \$2 million. We eliminated the alternative minimum tax. It made sense to go ahead and eliminate that credit that was no longer needed. It adds up to \$150 refundable earned income tax credit. We all agree that this is a huge piece that is added to this bill in a very positive direction. It does remove some of the revenue from this bill. We now removed the increase in the real estate transfer tax that was in L.D. 1088 on the portion of the home that was over \$500,000. This new bill also eliminates activity-based recreation and amusements, things that get us out there and moving. Skiing, golfing, bowling, etcetera. It makes clear that health clubs and lessons like dance, music, theater, and gymnastics are not taxable. They never were under L.D. 1088 but we're going the extra mile to make it clear that they are not taxable. Horses, there was some speculation that horses would be taxable. Horse services. They are not

taxable under L.D. 1088 or this particular bill. We increased by a couple of million bucks what we're going to put into tourism for the state of Maine. We've always argued that regionally, compared to the other states in New England, we were not funding tourism promotion to the level we should. We're going to kick that up a couple of million bucks. I can't think of a better time to do it with the economy the way it is and all the efforts to keep tourists within their home states, keep tourists local, and keep Mainers here in Maine. There couldn't be a better time to do that. The question may be raised as to how to pay for all these positive changes. It is with a surcharge of .35% on incomes in excess of \$200,000. That's where the money comes from. If you earn under \$200,000 nothing changes on the income tax side unless you are one of the lucky recipients of the refundable earned income tax credit. Above \$200,000 that .35% is only the money in excess of \$200,000. As we all know, at those incomes and above is where the real benefit from that rate reduction kicks in and you are still far better off under this new proposal than our existing tax code. I would urge we adopt this bill and start saving money for the folks in Maine. Thank you, Madame President.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **NASS:** Thank you, Madame President. For those of us who are no longer in the loop, not that we were in the beginning, for those of us who can't figure what's going on here, I think L.D. 1088 is on the desk of the Chief Executive. There has been a flurry of activity, some in writing. Now we have a new bill. They largely overlap. My question is, what is the intent? What's going to happen with these two bills if we pass this one?

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

Senator **PERRY:** Thank you, Madame President. With passage of this bill there will be no need for L.D. 1088 and it could be dispensed with in a number of ways, I suppose. We will figure out one of them or the Chief Executive will. This encompasses everything we need.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, my criticism of the prior bill has only grown with this one. We, unfortunately from the Minority standpoint, did not get a chance to participate as fully as this kind of a change would warrant. I came up here in debate on the last bill and admitted, reluctantly, that I was ashamed to say I really didn't know what was in it. Having served on the Tax Committee for five years, I did not have any idea as we got into amusements and taxing, especially into the very aggressive sales tax area, what was really going to happen to our people. Now we have

some changes made. I was going to say a few minutes ago that my copy was still warm. It's not warm any more. We've had a few minutes. It's not very cold. There are changes and I don't know what we're doing here. I know even less than before. My criticism is that. My criticism is that we don't know what we're doing. Our plan, apparently, is that the Revenue Services, the aggressive tax collectors that we have hired and pay and want to be aggressive in this state, are going to be up and operating when this becomes effective in October and certainly by January. The Tax Committee is planning to start meeting with them in November to work out some of these things. I'll tell you, most of our working out stuff with Maine Revenue Services has been pretty antagonistic. That's where they do one thing, we disagree, and they tell us that if we want to fix it we've got to pay for it. It's hardly a recipe for working out these problems. Maybe things will be different this time. I kind of feel that you are not going to like the results of that.

To be more specific, if I can, I've asked to have passed out a copy of the old fiscal note. You have, on the bill, the new fiscal note. There are substantial differences I can't explain. I don't know how they got there or why they are there. I'm just going to deal with a few details. Some are very similar, because I notice we haven't fixed some of the things that we pointed out last time. For instance, we still have not dealt with the fact that we're no longer taxing non-residents as far as their income goes. That's in another amendment sitting on your desk. It's to a different bill that is in the unfinished business, item number three. A technical changes bill. The other part of the problem that is dealt with in that amendment is horses, because the people that developed this bill and Maine Revenue Services thought that horses were pets. Apparently we're going to just declare in this amendment that horses are pets and therefore boarding, feeding, and whatever else we do with horses, shoeing them I guess, putting saddles on them, won't be taxable if we adopt this other amendment, which is sitting on your desk someplace. We're talking expensive stuff here. This bill does not fix that. As near as I can figure out, I couldn't find it but I didn't have much time to look, those two things. By the way, the non-resident tax thing is worth \$90 million a year. That is 10% of our revenue from the income tax that comes from non-residents. That is not inconsequential. Hopefully we'll fix that someplace.

Let's go to some of the specifics. Again, I apologize. These are repeats because I don't know what's in this thing. Candy. I was criticized after I brought up candy last time because it's so small. We should be focused on the economic benefits of changes. Certainly the capital gains benefits and reducing the income tax. That is true. Let me tell you, candy is not inconsequential because what we are doing to candy is similar to what we did with the snack tax, which took us years to get rid of. You are going to have a repeat, on perhaps a somewhat smaller scale, of the snack tax. People are not going to understand. If you don't think they will notice when they buy a candy bar what they are paying I think you are mistaken. They are not going to understand that when they buy a Twix bar it's taxed at one rate but when they buy a Hershey bar it's taxed at a higher rate. It has all the elements of the snack tax. Certainly smaller in scope and lack of understanding. We have not done anything it appears, because I can't find it anywhere, with the nursing home problem. Somebody that now makes a modest income and currently has large medical deductions, itemized deductions, is now going to pay more. As I said before, these are the same people, there are not many of them left, that we whack with the service provider tax

because they appear to be eligible for that. Now we're going to ask them to contribute more. There are not a lot of them. There are not many left. Of course the thing that we, in the small amount of time we had left to deal with this in committee, talked a lot about the tax on auto repairs. Any time you broaden or increase the sales tax most of what you are doing is very regressive. This is probably the most regressive thing that will come out of this. When you couple that with the changes in this bill, the fact that we are now going to not tax ski tickets and golf rounds, it does add up to a situation where Joe Six-Pack who wants to take his kid to the movies and stops on the way for a candy bar, or maybe he's just going to McDonald's but the car breaks down on the way, all of those activities are going to be taxable. The family that is going to Sugarloaf for the weekend in the Lexus, which is in good shape, has now been relieved of any broadening of the tax problem by virtue of this change. Finally, there is the confusion over what is amusement, which might be considered a movie, bowling, golf, skiing, or that kind of stuff which is what most people would consider an amusement type of activity, and the exemption from this increased tax for health related issues. The health club, which we got a lot of push back on three years ago, is not going to be taxed if you can show it's health related. If it's not, and it's an amusement thing, it is going to be taxed. We're going to spend years trying to sort that mess out. Everybody's going to claim their activity is health related. Welcome to tax reform. Thank you, Madame President.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just want the legislative record to reflect the new record that we are going to be setting here today. I was listening on the intercom when this bill was being debated in the other Body. I didn't remember the bill so I went down and asked what they were doing. They said, 'We're doing tax reform.' The number wasn't L.D. 1088. I asked, 'How long have you had this bill in the chamber?' Several members said it was thirty seconds. Wow. Must be a one-pager. No, it is 34 pages. I said, 'I have longer to read a greeting card than this 34 page bill.' Coincidentally, I happened to be in the Secretary of the Senate's Office when this printed bill arrived. I documented the time. It was 4:12 this afternoon. Again, a 34 page document. Still hadn't been circulated. I believe this document has been on your desk for less than an hour, well maybe over an hour. I believe that sets a new record. I also want to remind you that we are currently fixing mistakes we made in the first bill that we ran through here so quickly. I don't like this kind of process. I think we should have had a little more time to absorb this bill. I will guarantee you, folks, that we'll be back again fixing this bill. I don't think it's good process for the people of Maine and I certainly don't think it's good tax reform policy.

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

Senator **BARTLETT:** Thank you, Madame President. Men and women of the Senate, I want to respond to a couple of the criticisms that I've heard today, namely that there was not enough time. Every member of this Body is in possession of the same document that we are voting on. I remind members that over the course of the session bills come to the floor and amendments get

printed, some by the members who are now criticizing this bill. They get distributed on our desks and we're asked to review them and to vote on them fairly quickly. That's the way the process works in this building. Everybody was distributed a fully complete copy of this bill. There is also, handily, a summary at the back which explains that these are the elements contained in L.D. 1088 with nine specified changes, and specifically articulates them there. From that it is very easy, if there is any one that you are concerned about, to flip through the bill and find that particular piece that you are concerned about. Everybody in this chamber has had the same opportunities to review the elements of this bill, which is a House document, and an opportunity to review it and critique it. In fact, I've been very impressed at the level of critique in light of the concerns about not being able to know what is in the bill. I also will echo some of what I said when we debated the last bill, that is that I am appreciative of the fact that members on both sides of the aisle want to see the income tax reduced. I continue to try to extend my hand, and the hand of our members, to try to do that collaboratively. The reality is that we've gotten a lot of resistance. What I find ironic is that we're hearing criticisms that they didn't have input into the drafting of the document, which is L.D. 1088 with a few changes, from people who opposed L.D. 1088 and made it clear that they think they are not ready to do this kind of tax reform this session. The reality is we've passed a bill, L.D. 1088. There were some concerns, some changes, and we worked with others who share our goal of passing this bill and we've come back with something that we believe we can support. That's what this is about. This is about whether we're going to lower the income tax rate and whether we are going to tolerate some modest expansions to the sales tax and some other changes in order to accomplish that. That's what this bill does. That's what L.D. 1088 does. I would encourage your support.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I extend my hand and I have extended my hand. I think we've been very responsible in our process. I guess the issue that I find so difficult is when you walk through the halls of this building and along the different floors and you look at the changes in this document and you look at the people standing outside the door of the people making the decisions. You look at how, all of a sudden, the ski lift tickets are out. Lawyers have been out for a long time. They were out probably early in the year. We talk about the benefit. A couple of years ago the Chief Executive put forward a proposal to reduce the income tax. He wanted to reduce it, I believe and I'm going from memory, from 8.5% down to 8%. He did it by suspending the automatic indexing. In some cases it was actually a tax increase for some people. When you look at the handout put out last week by the Majority office in the other Body and you look at the miniscule amount of money that people were actually going to get for tax relief and you divide it by 52 weeks you see that in some cases you have a family of five getting less than \$1 a week. I think you know that the same smoke and mirrors are going on. I think that there are people that think that we can sell this across the country, saying we've reduced the income tax but, by the way, you're going to pay close to the same. I don't believe it meets the straight face test, in my opinion. I believe we can do better. I think for this session we have worked very hard to extend our hands across the aisle and when we come to a loggerhead we

continue to try to work together but this is a product, as we saw with the original L.D. 1088, of one side just bullying ahead with something and not being willing to do the hard work to get both sides so we can benefit all the people of Maine.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, when we debated L.D. 1088 just last week the Senator from York, Senator Nass, stood and pointed out that we were repealing the tax on out-of-state residents. Not once but twice did he point that out to the members of the Taxation Committee and the people who were working on it. We were assured that this was, in deed, not the case. When I've been told I have an hour, and I should feel very comfortable reading the summary of the bill, excuse me if I say I'm not even at the trust but verify stage. I have read it and it is a major shift. I'm thinking about businesses who lease. There is a businessman who leases \$1 million worth of equipment a year. His cost of business on January 1st will go up \$50,000. I'm thinking of friends of mine who own a print shop. They lease every single piece of equipment that they have. Xerox machines that run \$100,000 and \$300,000 for a color one. He gets his first monthly bill for that lease and there is a 5% sales tax on it. He's not here today. The single Mom with the broken down mini van. She's not here today. She has to get her car fixed. The person who works in an executive position has to have their suits dry-cleaned. Businesses hire accountants. It's been a shift. I found it incredible when I read that discretionary spending such as skiing and bowling. Discretionary. There are all kinds of ways to work out. That's gone. Yet we're still taxing the very necessary things that have to be done in order to get to work, stay at work, have your home repairs done and run your business. We're hiring, I believe, eleven new people to administer this. I have a hard time telling my constituents that they will get a \$2 a week or a \$4 a week benefit from this bill while we pay the average State worker about \$60,000 to \$80,000, depending on the position. I have a hard time telling my people that itemizing, that used to help them, is gone for this return so they will need to pay what they did save to do the itemizing for the federal return. I have a hard time telling my people that it took us all year, all year, to arrive at this place with a combination of three bills that may or may not be signed, and that may or may not have the effect that we want. Do I want income tax relief? Yes. Do they want income tax relief? Yes. Do you know what they asked you to do? Quit spending. They didn't say to go down there and make up a bunch of tax credits that they will have to try to figure out. They didn't say to go down there and make it so they are going to save \$2 extra a week. They would have told you to stay home and save the \$30,000 a day. I'm not voting for this. I hope to God there is no people's veto because if anything I think the people of the state of Maine should have to live with this. If we can't turn it down they should absolutely live with the work product that this has brought. Thank you.

Senate at Ease.

Senate called to order by the President.

Under suspension of the Rules, **READ A SECOND TIME.**

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

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, these revelations are coming, because this is so new, as we sit here and listen. I just want to mention one other thing that is a mystery to me. When we discovered in L.D. 1088 that we were missing the authorization to collect income tax from nonresidents we walked away from that thinking that it was a statutory problem and the fiscal note people did not make that deduction. There was no fiscal note problem. Whether that was true or not, that was kind of the assumption that I made. Now we have the new bill and we have not fixed this nonresident income tax problem, which Revenue Services has told me is worth \$90 million a year. We see nine changes here with relatively small adjustments but I should see a \$90 million difference, I think. I don't see it. My question, I guess, is I'm still dumbfounded as to this fiscal note. We probably are going to fix this nonresident income tax problem. It's around here someplace. The fix is in. The fiscal note doesn't reflect that in what we are currently voting on, Madame President. Again, I would urge that this thing be voted down and we try to do something different that makes more sense. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, when I was up earlier I did forget to comment on one thing. I know the good Senator from Penobscot mentioned about being eloquent and informative. I just wanted to say that I believe that he's much more informative than he is eloquent. Having said that, I'm wondering if I might pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. I am trying to follow this through the fiscal note. I think that when you get something at the last minute it's usually the first place I try to look. It appears that there is an increase, I believe, from the original L.D. 1088 for the tourism fund. Tourism in 2010 and 2011 is \$2.8 million and it jumps up to \$4.3 million. I'm not sure how to characterize this increase for the tourism fund. Does that mean that the tourism fund has enough money now and the tourism industry is supportive of this process? What is the case with it? Thank you.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I did kind of move quickly, but eloquently, I will admit through the changes and I didn't realize we were going to get into a substantial debate over it because it is L.D. 1088, that we all have had for a long time, we debated for hours, and have discussed in length since, with some pretty clear changes. I've heard a lot today and I'm not sure all of it adds up to what's really in here. We went to great lengths through the hours and hours and hours that we worked this bill. This bill originated with tax reform from two years ago that we had 46, I think, public work sessions on. Both sides supported it in committee. It was an 11-2 bipartisan, tripartisan, with one Independent report. That was the starting point for this. We continued to work throughout the year. We made sure leasing was not taxable. We made sure we weren't laying new expenses on businesses. When the question was raised about non-Maine residents paying taxes, it was clear that in the fiscal note and everywhere else that this was not the case. I went to the Revisor's Office and to our analyst and was assured that all the structure of tax policy, the fiscal analysis and the intent of the bill was to continue to tax non-Maine residents and share the benefits with Mainers. In a belt and suspenders approach, we did one word, impose was stricken, and we are going to put that word back into the technical changes bill. I don't think anyone downstairs feels it necessary. We're still taxing non-Maine residents but it can't hurt to put it in there. We'll go ahead and do it.

If you just take a look at the snapshot of where our tax code is today and what people are paying, then take a snapshot of L.D. 1088 as we passed it, and then the same thing with the changes that are here now, you'll see significant improvements with the refundable earned income tax credit, with 89% of Mainers getting overall tax reductions versus 84%. If you just look at the analysis, this goes beyond what L.D. 1088 did with tax relief for Mainers, particularly on the lower end. When you look at the fiscal analysis, it comes down to either we trust Dr. Mike Allen and his team at Maine Revenue Services and their multi-million dollar computer and sophisticated software that tells us that after all the new taxes are imposed people see burden reduction. It might only be a couple of bucks a week. The structural changes of this go well beyond the dollars people are saving. It is important to the State of Maine that we put a better face on our tax policy. Remember all those years when we were labeled the highest tax state in the nation and what that did for us? Lo and behold, we find out we're not. It was the way they ranked us. We're at the middle of the pack. We're 3/10% above the national average but we still live with that stigma of being the highest tax state in the nation. I can guarantee that with the \$500 million we cut out of this budget, while every other state in the nation is raising taxes to meet their budget gap, we're going to be below the national average. That 8.5% rate still stands out nationwide as too high and this brings us down to the middle of the pack and really changes the face of Maine. Everything we are doing is cumulative. This is one step in the right direction that we are going to build on in two years. I believe if you really study it the way the committee has you'll find out that this is not the case. We know it's not the case. The Tax Committee is going to be on top of this as it is implemented and we're going to make sure it's implemented right and the people of Maine win. Madame President, I would move we pass this right now.

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

Senator **COURTNEY:** Thank you, Madame President. I wish I was so eloquent. I guess, with your permission, I'd like to pose another question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. I'll try to rephrase it because I lost it in all the eloquence. In the fiscal note, why was the tourism line increased from the previous version of L.D. 1088?

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I think it's no secret that one of the major underpinnings of this proposal is increasing the meals and lodging tax from 7% to 8.5%. We were the lowest in New England at 7%. Clearly we are the most desirable destination in New England. It was below New Hampshire, below Vermont, below Massachusetts, and Rhode Island. It brings us up to the New England norm. We'll still be the second lowest. We don't know what New Hampshire is going to do. They are talking about going to 8.75%. That is where we get so much of our exportability, 70% exportable on rooms and 30% on meals. All that money shared with just us. That money is shared with us here in Maine. We're not gouging anyone. We're in line with the rest of New England. The fact that we are relying on that industry for a lot of the exportability and the burden reduction we get, this was a change that did not come from me, it came from within this Governor's bill, and I can only imagine he felt like it was the right thing to do to put a little more money into tourism. It's probably good business as well. Let's keep people here in Maine. Let's bring people here to Maine. I'm all for it, putting a couple of million bucks into tourism because if you look at the numbers that is money well spent.

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

Senator **PLOWMAN:** Thank you, Madame President. I'm not sure if that is money well spent because the State of Maine could just adopt what New York did when we did a similar provision. They said, 'Come to New York, stay for three but pay for four.'

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

Senator **BARTLETT:** Thank you, Madame President. There has been seething criticism of various pieces of this amended version of the bill. I thought it was important to mention a few of the points and reasons why I support it and try to help others understand the theme that is going into these nine bullet points you see in your summary. First and foremost, the new exemptions from sales tax deal with recreation, physical fitness,

and outdoor activities; the very kinds of activities we want to be promoting. For example, we're talking about not only skiing and golf courses, which were mentioned, but a wide variety of other things from bowling to skating rinks to gymnasiums, tennis, and racket ball courts. It also specifies that exempted are health and fitness centers and lessons, dance, music, theater, arts, gymnastics, martial arts, and other athletic pursuits. What we're talking about here is removing the tax and making clear that exempt from taxation are those kinds of physical activities that we want to be promoting and that we believe perform the health promoting underpinning of our economy.

Secondly, as has been mentioned, we are increasing the funding for tourism. I can't think of a better time, given the current economic climate and given the propensity of people to make shorter trips closer to home, to promote Maine as a great tourism destination throughout New England, Canada, and around the country. We're giving them more money to promote those assets that are driving the Maine economy.

Thirdly, we're instituting a refundable earned income tax credit. This is helping people who are working, who are struggling to get by, who are struggling to work, and helping them at a time when wages are low, when it's hard to find work, and when they do we are going to help to reward them for their efforts.

Finally, this package increases the overall progressivity of the income tax system. I think that's important because the people who most need relief are working, middle class Maine people. This package, by becoming a little bit more progressive than we were talking about before, will give more benefits to them. That is what this is about. That is why we have an amended version. That is why this is better than the product we debated before. I urge your support.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I hate to get up so often on this one subject but this is my third time in eight years. I'm a little bit confused, a little bit bewildered. I know what is in this bill. I'm a furniture maker. I've been here eight years. I know what's in this bill. I didn't go to law school to find out what's in this bill. It's easy to read. The only two new things I see in this bill are the surcharge on people earning over \$250,000 and an earned tax credit. That must be driving these people on this side of the aisle just holy bejesus because they seem to be whining about it a lot tonight. Excuse me, Madame President, I'll slow down because I want to be precise in what I'm saying. I'm very concerned about the redevelopment of the air station that is going to close in my district and going to affect the state of Maine dramatically. They are going to close down in a couple of months. When they do there are going to be 6,000 people leaving the state. Last week when we voted on this bill I heard from the Redevelopment Authority. They said the biggest single best thing the State of Maine has done to help redevelop that base was cutting income taxes. They can go around the country and help sell businesses moving to Maine. They said that is the biggest single thing we can do here in the Legislature for them. I can't, for the life of me, understand why it's causing so much heartache when you're going to add a surtax on people making \$250,000 and when you are going to give people that are going to work every day, working their hearts out at one, two and three jobs, an earned tax credit. I can't, for the life of me, understand why we are debating this.

There is nobody in this room that hasn't known how they are going to vote on this last week or this morning. It hasn't changed. We've taken out one thing and added another. It's not rocket science. We're making things better for the people of Maine. We're making things better for the business people in Maine. I might get excited about that, but I think it's a good thing to get excited about. Madame President, thank you very much for your patience. I thank this Body for their patience in hearing my little tirade but let's get off the kick of we don't know what's in this bill because there is nothing in this bill we haven't debated. There is nothing in this bill that hasn't been through the committee. There is nothing that hasn't been vetted except for the part about \$250,000 income and the part about the earned tax credit. Thank you very much.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed. 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 (#202)

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

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

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Ordered sent forthwith to the Engrossing Division.

Senate at Ease.
Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Emergency Measure

An Act Regarding Maine's Energy Future
H.P. 1038 L.D. 1485
(H "A" H-540)

In House, June 10, 2009, **PASSED TO BE ENACTED**.

In Senate, June 11, 2009, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

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

Senator **BARTLETT** of Cumberland moved the Senate **RECEDE** and **CONCUR**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#203)

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

NAYS: Senators: GOOLEY, NASS, PLOWMAN, ROSEN, SMITH, WESTON

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 6 Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, the motion by Senator **BARTLETT** of Cumberland to **RECEDE** and **CONCUR**, **PREVAILED** and the Bill 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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Update Department of Defense, Veterans and Emergency Management Laws"

H.P. 931 L.D. 1327
(H "A" H-467 to C "A" H-390)

In Senate, June 4, 2009, **PASSED TO BE ENACTED**, in concurrence.

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (H.P. 1047), in concurrence.)

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-390) AS AMENDED BY HOUSE AMENDMENT "A" (H-467)** thereto **AND HOUSE AMENDMENT "A" (H-567)**, 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. 207

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

June 11, 2009

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

Dear Secretary O'Brien:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Clarify the Role of the Public Advocate" (H.P. 657) (L.D. 954).

Representative HINCK of Portland
Representative WAGNER of Lyman
Representative THIBODEAU of Winterport

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

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

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Amend the Charter of the Limestone Water and Sewer District"

H.P. 1050 L.D. 1494

Committee on **UTILITIES AND ENERGY** suggested and ordered printed.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee, in concurrence.

Ordered sent forthwith to the Engrossing Division.

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

ENACTORS

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

Emergency Measure

An Act Regarding the Transfer of Patient Health Care Information through an Electronic Health Information Exchange
S.P. 570 L.D. 1490

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Act

An Act To Continue the Position of Director of Recreational Access and Landowner Relations

H.P. 594 L.D. 863
(H "A" H-447; H "B" H-563
to C "A" H-153)

Senator **NUTTING** of Androscoggin requested a Roll Call.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, once again this evening I urge the members of this Body to oppose this particular bill and vote against enactment of it. My office sits right behind our committee room that we share with the Inland Fisheries and Wildlife Committee. I was present during some of their work sessions when they tried, during the budget negotiating process, to increase more funding and fund the biologist position through DICAP. They were told DICAP for that department was maxed out. I listened to the department tell them that. I confirmed that with two members of the committee from the other Body. Now, all of a sudden, there is another \$60,000 we can find from DICAP to fund the rest of this position, a position that is going to be half-time funded all summer while they study whether or not the position should exist. Come October, before their report is done, the position is going to be fully funded under a series of amendments tacked onto this particular L.D. I am amazed at the attitude that some how we have all kinds of money, yet last week our shortfall for May alone was an additional \$20 million. I'd urge you to not support the enactment of this bill. Thank you.

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 (#204)

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

NAYS: Senators: BLISS, BOWMAN, COURTNEY, DAMON,
DIAMOND, GOOLEY, HASTINGS,
MCCORMICK, NASS, NUTTING,
PLOWMAN, RAYE, ROSEN, WESTON

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

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

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

After Recess

Senate called to order by the President.

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

ENACTORS

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

Emergency

An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011

H.P. 269 L.D. 333
(C "A" H-539)

Comes From the House, **FAILED ENACTMENT.**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-539), in concurrence.

On further motion by same Senator, Senate Amendment "C" (S-338) to Committee Amendment "A" (H-539) **READ.**

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

Senator **RAYE**: Thank you, Madame President. Men and women of the Senate, this amendment offers a way for this Body to address one of the most pressing problems we face as the legislative session comes to an end. Just as Maine families are forced to make difficult choices during lean times, so are we. We've already done that together with the biennial General Fund Budget. We have an opportunity to do it here. These are not ideal times, to say the least, considering many of the decisions we have been forced to make during this session. Shut down days for State government, frozen step increases, and suspension of longevity pay for State employees. Suspension of our own legislative COLA next year and other painful cuts all across State government. We have acknowledged that these times call for this kind of difficult prioritizing. In fact, just yesterday we had to make another adjustment to the budget and there is no reason to expect that we will not have to revisit the biennial budget moving forward given the continuing decline in revenues. Across the state hard working Mainers also wrestle with difficult decisions as they sit around their kitchen tables. They are forced to establish priorities and make the tough choices they undoubtedly would rather not have to make. Many families who hope to buy a new car have set aside that goal for the short term and the money they may have been saving for that new car is now going to keep their old vehicle running for a while longer. Like the family setting aside money for that car, in the last Legislature we established the TransCap to set aside money with the goal of highway reconstruction. Little did we know when setting up this new approach that we would soon be plunged into the worst economy in decades. Just as many families across Maine and across America are doing, we need to step back and reassess. The TransCap may be a great idea but can we really pull off the entire thing right now? Is this the right time to initiate a new diversion of gas tax revenues to this new approach? We are hearing that TransCap must not be touched, but to be honest, it is difficult to accept that this new TransCap approach is sacrosanct. It is, in my estimation, a worthy goal. I voted for it. I still think it's a good idea, but it is not carved in stone. In fact, it's hardly even off the ground. The first transfers of the fuel tax are not even slated to happen until July 1, 2009. Just as Maine families can't ignore the need to temporarily set aside some goals until the economy improves, neither can we.

Last session the Legislature wisely recognized our need to engage in long term planning and to invest in our capital infrastructure, TransCap being one vehicle established for that long term purpose. The 123rd Legislature voted to divert 7.5% of gas tax revenues to the TransCap fund with the first diversions of those monies set to hit the fund on July 1st. In this economy, with declining DOT revenues, we simply cannot afford to divert that 7.5% to TransCap. Doing so leaves us no money for maintenance surface treatment. Maintenance surface treatment costs roughly \$42,000 per mile and buys the taxpayer an additional five to seven years of road life. Full blown reconstruction costs anywhere from \$1 million to \$2.5 million per mile. It is short sighted in this economy, with our crumbling roads, to bank money for future reconstruction when regular maintenance cannot take place. It is akin to saving money to build a beautiful new addition onto your home, ignoring that the roof is leaking and slowly the overall structure is falling apart. We know that our maintenance paving needs are on the order of 8,000 miles at the moment. The current system would allow us to pave only approximately 100 miles. Retaining gas tax monies for this biennium would buy us an additional 800 or so miles. While

that is far from meeting our complete needs it does, forgive the pun, get us a little further down the road. Please, men and women of the Senate, do not forget that TransCap still will have money and will continue to receive money. Funds come from vanity plate fees, registration and title fees, and other sources. The only source of funding that this amendment seeks to change is the 7.5% of the gas tax which the last legislature allocated that we have not yet actually added to TransCap.

The impact of adopting this amendment could be that our TransCap bonds will be slightly less attractive to a buyer, that is the bonds which currently pay 3.75% interest may have a practically imperceptible increase. The reality is Maine is not alone as many other states are adjusting revenue streams to account for the national down turn. They are still more costly than the General Obligation Bonds. We can, with a robust General Obligation and Highway Bond package for our roads and highways, still make a significant investment in reconstructing our roads. Ladies and gentlemen of the Senate, I ask that you think both long term and short term. Let us continue to fund TransCap as we have through the various sources to meet our long term needs and for this biennium retain our much needed and ever shrinking gas tax revenues to preserve the infrastructure that we do have. I hope that you will join me in supporting the adoption of this amendment.

Senator **DAMON** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-338) to Committee Amendment "A" (H-539).

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

Senator **DAMON**: Thank you, Madame President. Ladies and gentlemen of the Senate, you have heard a very well prepared presentation on TransCap and in fact why we ought to raid it. Raid it before we started it. I will tell you that the program that we are referring to, TransCap, the Transportation Capital Account which was part of the comprehensive package that was passed by the previous Legislature that was called An Act to Secure Maine's Transportation Future, was an important part of that piece of that legislation. It was developed for just these times. It was developed with the recognition that times will get tough and that if we don't take measures to provide for transportation infrastructure and capital infrastructure improvements we will never be able to address them. That system which we are bound to maintain, which we are obligated to maintain for the people and the businesses and the tourists of the state of Maine, will continue to crumble as it is presently crumbling. It is a compelling argument that the Senator from Washington makes about the temptation of diverting the money that is destined for that account for some other need because, as he very correctly states, we have plenty of other needs. I would maintain that it is short sighted to do that. When this account was established the only funding mechanism to go into this account was the 7.5% of the fuel tax revenues that come into the Highway Fund Budget. That was the only money that was projected to go into funding this account. It was from that 7.5% and those dollars that we were now going to be able to fund, with cash payments, transportation capital projects. We refer to them on the Transportation Committee as dirt projects rather than paving projects. These are projects, as the Senator maintained, that if you build a mile of road it's about \$1 million and if you surface a mile of road it's

about \$42,000. We were trying to maintain an opportunity and create an opportunity where we could build roads that needed building and at the same time envision paving roads that need paving so that we wouldn't have to build them again. That was the only source of income to that account and the first amount of those monies that were to go into that account was to start on July 1, 2009. The proposal before us would not even let that first dollar go into that account for the intended purpose. We don't have discipline enough to do that, we don't have discipline enough for this job.

It is also correct that there are monies presently in that account. They were not monies that we had anticipated going in, but they were monies that we put in that account as a result of actions that we took at the end of the last legislature and they were from, I think we are referring to them as specialty license plates or vanity license plates, for increased fees in registrations, titles, and taxes. Do you know why they were put in? Because it became part of a bill that we had in the eleventh hour of the last legislature because we recognized that part of our capital infrastructure, the bridges, were in danger. We had received reports, this legislature through the Transportation Committee, that there were 287 bridges in the state of Maine that were beyond their useful life. It hasn't gone so far as to say they were in jeopardy of collapse because we wouldn't allow that. We would close them, and we have closed bridges that are in that position. They were beyond their useful life and we needed to make an investment into those bridges. The package that came before us was that a bond would be serviced out of the TransCap account that was going to be stimulated by those fees and things that we had voted to put in it. It would be \$40 million a year for four years, \$160 million. We just had a report card come to us in the Transportation Committee this year showing all of the effects of our infrastructure and grading how we were doing on meeting our challenges. Bridges were one of them. Roads were another one of them. There were other aspects of our transportation infrastructure. The only grade that we got a satisfactory or a passing grade on in that report card, of all of those infrastructure evaluations, was bridges. The only reason we got a passing grade on bridges is because we had used that money to go into TransCap to fund a bond to do the work on the bridges. A success. We can't not continue to strive for success. We can't simply take the easy way, to take the money that was designated for this TransCap account before it's even gone into the TransCap account and say we had to take it. Nope, the people of Maine don't deserve that and we don't deserve to do that to them. If we cannot pass a budget that has future revenues in it, additional revenues in it, to do that paving that we need to have done so be it. So be it, but we ought not to start raiding the present budget, cannibalizing it so that it consumes itself and we don't get the work done. Ladies and gentlemen, I would urge you to support the pending motion so that we can move forward with this budget. Thank you, Madame President.

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 Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I rise to not support the Indefinite

Postponement. I do so because all winter and spring our Transportation Committee has dealt with the issues of the shortage of funding and the need that is out there. We've come up with several proposals. So far the proposals really haven't gotten too far. This proposal that the good Senator from Washington County makes is one of those proposals. To my way of looking at it, it is doable and I sense that we need to vote on it and see what the sense of this Body is. I do not support the Indefinite Postponement. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, my light was still on but since you've called on me, you know what, I think I'll probably add my two cents. I want to thank the good Senator from Washington for bringing this forward. This process has been very difficult for all of us. I think all of us recognize the value of TransCap, but we also recognize the value of keeping the maintenance so we can avoid some of the further needs for the TransCap. I'm very disappointed in the Senator from Hancock's comments. I am sorry to see that there is a line drawn in the sand. People on our side of the aisle have offered alternatives without raising taxes on the people at home in the most difficult economic times in 30 years. I would encourage you to support the good Senator from Washington and follow his light. We're giving you an opportunity to at least maintain some of these roads during these terrible times and then we will come back and do what we can with the TransCap after this tough period. Thank you, Madame President.

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

Senator **BARTLETT:** Thank you, Madame President. I support the pending motion. I just wanted to add a few comments as I reflect back on our debate two years ago when we were putting TransCap in place. There has been a suggestion here tonight that economic times are much worse than we could have predicted and therefore we should be raiding the TransCap fund to shift money to paving needs. If you look back, as I have, at the debate on the floor back in 2007 it was explicitly stated that we would be expecting lean economic times in 2010 or 2011 and we were going to have a very difficult budget. In fact, there were folks who opposed the creation of the TransCap account for that very reason. Those of us who supported it did so because we knew we had a choice. We had a choice between moving forward and funding capital improvements, things that had been chronically underfunded and not taken care of, or we could put those dollars to be used for other needs and continue to ignore the deterioration of our roads. We made the decision that we needed to designate some money over the long term and put this money into a savings account and be able to use that and leverage it to build better construction. It's important to recognize that what this amendment proposes is not merely taking some money that wouldn't otherwise be used to use for this purpose, but you are taking money away from one set of capital improvements and moving it into much shorter term investments. That is the concern I have. We ought to be looking at the long term horizon and not simply be grabbing money out of an account in order to support a very short term need. I think it is short sighted and I am concerned that over the long term it will lead to

greater deterioration of roads and much higher highway costs. The reality is that the economic forecast in front of us does not suggest that things are going to get better right away. If we do not take advantage of the opportunity to make continuous, steady capital improvements it's not going to happen and we're going to see a deterioration of our roads and highways to a point where they are going to be unsustainable. I do think we ought to be looking for ways, and continue to look for ways, to fund our short term paving needs. I don't think it's wise and it's not good public policy to be pulling money out of our long term account in order to do it. For that reason I would support the pending motion.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. There was a report referred to earlier given to the Transportation Committee about the state of our roads. Would someone please tell me who commissioned and paid for the report that was referred to on the floor? Thank you.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, the report came to the committee and I believe it is a requirement of L.D. 1790 that a report be given annually to the Transportation Committee about the condition of our transportation infrastructure because that was one of the requirements of L.D. 1790. With regards to who paid for the report or who commissioned the report, I suspect the Legislature required the report and as far as payment, I would presume it was from within the department.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, it seems to me we have three choices. Two have been outlined. One, as the Senator from Hancock, Senator Damon, spoke of is to do nothing and do no maintenance paving in the next biennium. Another, as the Senator from Washington, Senator Raye, has pointed out is to utilize these TransCap funds. I think the answer is that the only other possibility, the only other solution, is to raise the gas tax. I've heard spoken that we should look for other ways to do this. I think my question is, and it is rhetorical, is there any other way to do this without raising our gas tax? I see none. I just cannot see it. I live on the New Hampshire border. The gas tax in Maine is already almost 9¢ higher than New Hampshire's tax. If you don't think that makes a difference in competition for our small businessmen along the border you don't know the gas business. It's extremely competitive. In Fryeburg there is The State Line Store sitting in New Hampshire next to the state line that has a built in 8.8¢ advantage right now. The state of New Hampshire,

our neighbor, has already decided that in these difficult times that the last thing they should do is raise their gas tax, and they haven't, and they will not in this biennium. Let's look ahead. If we are not going to use the TransCap money, and if you want to do something to see to the maintenance paving in this biennium, you will be placing our small businessmen along the border at an even more serious disadvantage and maybe putting them out of business. Right now I assume that the Maine retailers are competing by maintaining a smaller margin but that will disappear with time. I suppose living on the border I shouldn't worry about a gas tax increase because I and my constituents can all go across to the State Line Store anyhow. We can buy our gas in New Hampshire and support the New Hampshire roads. The more the differential between our tax and our neighbor in New Hampshire's tax grows the farther into Maine that phenomenon will develop. I don't know of any fourth solution. Taxes, TransCap, or do nothing. To me, we do the least harm by utilizing, on a temporary basis, these TransCap funds. It is far better to me to maintain 600 miles of road at a basic level. That outweighs, to me, forbearing on a short number of miles of rebuilding, which I would dearly like to see, but based on our priorities I think the TransCap funding is the only logical way to go. 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, there are other options out there and I don't think the question is down to do we do something or do we do nothing. It's where do we do nothing? If we are going to take this TransCap money, and spread it 5/8" thick throughout all of Maine, I just don't see where that is moving our issue with transportation ahead. Look at that bridge down in Bucksport that we spent millions of dollars holding the old one up because we didn't maintain it so we could spend \$80 million or \$90 million to rebuild it. Is that what we want to set up for ourselves? Ignoring long term capital. Anyone who is in this chamber who comes from a district with an urban compact, we're paying our own way for roads. TransCap is the only funding that will potentially do projects in urban compacts. We want to take the TransCap money and spread it out on maintenance paving. None of the maintenance paving will happen in urban compact zones. There is an option besides taking TransCap or not, or raising taxes or not. Let's look at our transportation system. Can we afford 8,400 miles of state road? Some go through very rural areas of Maine. My question is, is the system too big? Should we have an honest conversation of what size system can we afford with the revenue we have and look to decommission roads? That is another option that's out there. It's one I think we've ignored but I think that is the reality of where we are. Can we afford the road system we have or not on the funds we have? If we can't, we decommission roads or raise revenues. Robbing from one fund to spread this out 5/8" throughout all rural Maine is not a long term answer. I'll be supporting this motion. Thank you, Madame President.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I've had some interesting communications today with people who have special knowledge of the bonding environment. I was curious about what the opportunities are for

the state in the economic posture that the nation and the world is in. Interestingly enough the first TransCap bond that was issued back in November 2008 was for \$50 million and carried an interest rate of 5.15%. There is another \$105 million. Remember last April we authorized another \$160 million in total for bridge work. Although dentists are expensive, this is another kind of bridge work altogether. That \$160 million was supposed to be raised over a term of several years, but the DOT has, I think appropriately, made the decision to go out and issue into the market \$105 million of that \$160 million in the next week or two. Those bonds will go to market at a rate of around 3.75%, which is considerably less than the 5.15% that was the rate just last fall, back when the market was quite dysfunctional. It's not a bad time, frankly, to be borrowing money to make capital investments in things like roads, particularly when roads and highways are a great way to put people to work. I asked also what the rate is on General Obligation Bonds and those are down around 3%, partly because the term of a GO Bond is typically 10 years, which is Maine's tradition, and the TransCap bonds are at 15 years. Even if the GO Bonds were at 15 years I'm told that the rate would still be perhaps around 3.25%, still about 1/2 point lower than TransCap. The reason for all that is that the market really likes General Obligation Bonds over Revenue Bonds and likes it to the tune of about 1/2 point. I also asked if it was common practice anymore to be able to buy insurance on these bonds so that the market would be essentially blind to the rating of the underlying governmental entity. That has totally disappeared. There are no long any insurers who have a rating that is any higher than the State's own rating, so there is no point in buying insurance because there is no market for insuring these bonds. For the first time in a long time, these bond underwriters in New York are actually reading the instruments and making judgments about the credit worthiness of the various governmental institutions that come to market. It's not a bad time to be borrowing, but I have to suggest that this entire topic of highway capital policy includes not only this highway budget and within it the TransCap and GARVEE borrowing systems we created but it must also include, I think, very great attention to our General Obligation Bonding capacity. The disadvantage, of course, with GO Bonds is that you have to go to the public with them. There is a certain doubt about whether they will pass and there is a time factor involved. We can't get them to the ballot box until November. We can't get them issued, probably, until next spring, maybe not in time for construction season, maybe, maybe not. It seems to me that we need a package before us on the assumption that this debate is going to carry well into tomorrow, maybe not on this motion but on related motions. It seems to me that we need to get together sometime tomorrow and talk about a combined package and where we want TransCap to fit, which is an immediate source of capital but a more expensive source, how we want that to fit in with the General Obligation Bond package which is longer term but cheaper. I think we need to do both and we need to bring the GO Bond subject into this topic of what we do for our highway fund package. I think they are tightly interrelated and we need a conversation about both together. In any case, I'm going to support the pending motion with some understanding that this conversation will be continued until tomorrow.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Indefinitely Postpone Senate Amendment "C" (S-338) to

Committee Amendment "A" (H-539). 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 (#205)

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, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SMITH, TRAHAN, WESTON

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **DAMON** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-338) to Committee Amendment "A" (H-539), **PREVAILED**.

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 Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. If I understand our current posture, we are on the verge of adopting a Highway Fund Budget that will provide no funding for surface maintenance transportation. If that is correct, I simply don't know how we can, in good conscience, cast a vote in support of this measure.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, the good gentleman from Washington isn't entirely correct but he's almost entirely correct. The budget upon which we are about to vote has, as I understand it, about \$4 million that is available for MST, that's maintenance surface treatment paving. That's what we've been talking about during all of this. That gets us about 100 miles of roads. Our need, our program, and our effort has been to try to do 600 miles of roads annually, 1,200 during the biennium. Given the life expectancy of that treatment, which is six to seven years, we will then be in a process, a regularly scheduled and maintained process, that would keep our roads surfaced as they should be. We are far, far from that but not because we haven't tried. I would hope, and with my remaining breath in this session of our legislature be

continuing to try to affect that effort. We must. This chamber must, in a two-thirds majority package and the chamber at the other end of the hall must in a similarly configured package of two-thirds vote, come to a reasonable, sustained compromise. This vote on this package that we are about to take is not there. I don't know, through all of the negotiations that we've had and all of the negotiations in the Transportation Committee and all of the efforts of that group to bring amendments to the floor to satisfy the need that has so far gone unheeded, or have at least been unsuccessful, if we are going to get there. I know, though, that I will be voting to support the pending motion and I will go to bed tonight hoping as I have for the past nights that we will get there. I don't know what the package will be, but I know we have to have compromise and we have to have discussions and we have to have agreement. This vote will put us in a position where if we can't have that compromise, if we can't have that discussion, if we're unwilling to have that agreement, we will have a Highway Fund Budget that, as I have said on more than one occasion, allows us to continue to limp into obscurity with our highway and our transportation needs. This is our best hope tonight. I hope it's not our final hope of the session. Thank you, Madame President.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, I have a more basic question I'd like to pose through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you, Madame President. It's my understanding that without a Highway Budget, notwithstanding the only 100 miles of paving, we will have to lay people off starting Friday or Saturday because there is no basic budget. While we are all debating on how many miles we are going to pave, I think we have a more basic question we have to be able to answer. That is, do we want to start sending people home because we don't have a budget? If I am accurate in that situation, that assumption, I would like to have that confirmed because if it is true I think we have to step back a step, get this piece of the budget done, and then worry about negotiating paving later because laying people off is not something any of us want to do and we do have another day or two that we can be involved in terms of negotiating the number of miles. If someone can answer that question, Madame President, I would appreciate it.

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 Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. The Senator from Cumberland is entirely correct. If we fail to pass a Highway Budget pink slips will start going out tomorrow to folks who will not have their positions if we fail to act on this budget. While it is true that this budget provides for just 100 miles of paving for the maintenance surface treatment and while I would love to solve that problem, so far we've not been able to come together on a solution. We've looked at a variety of potential

funding sources. We haven't been able to agree on anything that would get us anywhere near two-thirds support in this Body. Faced with that choice, I think our best strategy is to pass a budget that will assure funding for the rest of the Highway Budget, will avoid laying people off, and allow us to move forward. We may never get to an agreement on funding this year. We may have to wait until later. I do know that we cannot fail on this Highway Budget and we must know as we leave here tonight that we have satisfied our basic obligation to ensure funding for that Highway Budget and prevent those pink slips from going out and prevent the disruption that this would cause. Thank you, Madame President.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, this is a vote that we don't take lightly at all. Quite frankly, we have offered a way to do this and fund this going forward and I believe there is another amendment out there from our side as well which I don't believe many of us support, which I'm not going to talk about right now. We haven't seen any suggestions from the other side of the aisle tonight with regards as to how to address this very serious problem. We've tried to negotiate in good faith. We've tried to come up with a solution that will address this issue based on the context of the times we are in. We've done our very best but many of us believe that we have to do this without raising taxes on the people at home and increasing their burden. Thank you, Madame President.

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

Senator **MARRACHÉ:** Thank you, Madame President. Men and women of the Senate, I got up here this morning to look at the papers and see what the editorials all had to say like I do every morning. I read the one in the *Portland Press Herald* that was written by the Senator from Washington, Senator Raye's counterpart in the other Body about our budget process, how it was bipartisan, and how well we have worked together. I'm unhappy to say that this has not necessarily been the case on this budget, which is just as important as the other one we passed earlier. There are people's jobs on the line and we all need to somehow come together and make sure that they too are protected like we've done for everybody else in the biennial budget. I'm hoping that on the vote that we take that it will be bipartisan as well. Thank you.

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

Senator **PLOWMAN:** Thank you, Madame President. For a very long time pink slips have been going out all over the state of Maine. The seniors coming into Hampden Academy in the last month have been coming in talking about the new college plans they have to make because their parents have been laid off and they are not going to get to go to the school of their choice. For a long time people have been coming home with pink slips. I don't know if you have checked the unemployment rate in Maine lately but it's almost twice what it was last year and in some counties it's three times as much. The fact is I'm not going to lose any sleep tonight because I voted for the best plan that will help. We just

passed tax reform. It came this way. What are we going to do? Thank you for the new tax break, now I may take that \$50 and put it back in my gas tank. I got a note saying it's only 40¢ a week, well on what plan? I don't have a plan in front of me. A little while ago it was 11¢, 12.5¢, 4¢, and then it went to 2.5¢. I'm still not sure what you are suggesting, but the only concrete plan that came before us today was the one you just rejected. Nobody likes to see pink slips go out. Go ahead. I'm waiting for a counter offer. Let me see what you have that doesn't hit the people who are already struggling to put enough gas in their car to get to the next, I was going to say job interview but there probably isn't a job interview. To the next place where they actually get to have somebody sign saying they came in to apply. It's nothing for some of you people. You fill up the SUV. You also have the boat and motorcycle. If things get tough all of you have a certain amount of money that comes in and a bunch of it. I do too, don't get me wrong. You can't give with your right hand and take with your left. In some countries making an offer with your left hand is an insult. If you truly believe that this is where you want to be then I think the name on the pink slips should be signed by the other side of the aisle because tonight we offered a plan. There shouldn't be a pink slip going out. Take the blame. It's all yours. I'll wait to see what you have to come back with. Remember, when the day is done and the pink slips go out, the last offer came from this side and you turned it down. Thank you.

Off Record Remarks

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 rise to thank the good Senator from Kennebec for acknowledging the op-ed in today's paper. Bipartisanship is very important and I think this is a legislative session that most observers would acknowledge has been characterized by an unusually high amount of bipartisanship and cooperation across the aisle. It began on the very first day of the session. Many thought it would be fleeting. It was not. It has characterized this session. We've recently, very recently, enacted a very major piece of legislation here that is hopefully an anomaly. I refer to the tax bill that was passed earlier today which was not, unfortunately, bipartisan but could have been if both sides had worked together in the same way we did on the budget. The budget that is before us has been compared to the biennial budget. The biennial budget was not an easy thing to achieve. The good Senator from Hancock, Senator Rosen, and the good Senator from Cumberland, Senator Diamond, can certainly attest to that. Long hard hours of arduous work went into getting us there. It was a process of give and take, where both sides offered solutions and it was not simply posturing and getting nowhere. I feel like that is sort of where we are right now, nowhere. I can't imagine that anybody in this chamber is happy at the notion that we are passing a Highway Budget that is essentially devoid of any meaningful maintenance and paving. Our citizens, our constituents, will not be well served if this passes. I just thought that since my op-ed was invoked I should respond to it and say that we do know, in this chamber, how to

achieve bipartisan cooperation. We do know how to do it. We've proven it over and over again during this session. This document before us is not an example of what we can achieve and so I remain, unfortunately, very uncomfortable with the notion of adopting something that I know will not serve the people of Maine well.

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

Senator **BARTLETT:** Thank you, Madame President. I too appreciate the bipartisan spirit that has enveloped this chamber over the course of this year. Even on that major piece of legislation that was referred to there was bipartisan support for that bill. Not as large as we might have hoped but there was some bipartisanship. I also want to take a moment to commend the work of the Transportation Committee on this bill. There was a bipartisan spirit in that Transportation Committee and Republicans and Democrats came together around a budget and also around some funding options. What I hope is that on this vote we will again see a spirit of bipartisanship. From the sounds of it we are not going to get everybody on the other side of the aisle, but I certainly hope we can get a bipartisan vote on this and get our job done. I too have many constituents who have gotten pink slips or are out of work. Many of them work in the construction industry. Many of them work doing roads and bridges. What I can't figure out is how defeating this pending motion, how defeating this budget, helps them. How does it help people? Not by laying off State workers, that's one thing. Think of all the other jobs that are going to go unfilled in the private sector when these contracts don't go out for bid. I think if we are really concerned about protecting jobs, about getting money out on the streets, then the responsible thing to do is to pass this budget. I am as frustrated as anyone that we haven't been able to solve this problem around the paving of our roads, but we haven't. The reality of a two-thirds budget means you've got to have support from a bipartisan coalition to get it done. We haven't been able to coalesce. The committee came together but we haven't been able to get two-thirds support up here for any source of funding. Our choice is to pass a budget without it or not to pass a budget. Given those choices, I'll take the lesser of two evils any day of the week. Let's get this budget passed. Let's get the money out on the streets. Let's do everything we can that we agree on. It doesn't help anybody to defeat a budget because we can't agree on this one section. I would urge your support of the pending motion.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, what disturbs me about this is the fact that in all this discussion it seems like what is lost is what people experience on those roads and on those bridges when they travel, and the cost that they incur when they are not maintained properly. I just want to share with you my own experience in losing two tires at \$165 apiece, which my own repair people told me were a direct result of traveling on our roads. Clearly we ignore these problems and we will pay one way or the other. What is disturbing to me is that we are sort of ignoring the problem of maintaining our roads. Not only do we lose jobs but it also goes into revenues that ultimately help spur our economic

development in this state which has huge ancillary benefits to many other businesses. It's not just about keeping people at their jobs. It's about getting this state back into a good economic situation. Clearly, by keeping our roads and bridges maintained, it has a direct impact on economic development. It individually will certainly have an impact on everybody's pocketbooks when they have vehicles that meet their demise because our roads and bridges are not maintained properly. My street has been so poorly maintained that for years the Department of Transportation has said it was going to be reconstructed. People literally cross over into the on-coming traffic to avoid the bad conditions. We're talking about life safety issues here. I just wanted to share those as food for thought as we debate this issue. Nobody likes to pay more money to maintain roads and bridges, but the fact of the matter is we will pay one way or the other. I would rather see us do it responsibly. Thank you very much.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, I just want to make it clear, and make sure that I have it clear but I think I do, that this vote tonight on this budget is nothing more than keeping the department open. That's all it is. We're keeping the department open. Tomorrow we can tussle and tangle and argue and do all the things we do when it comes to whether or not we're going to pave 5 miles of road or 600 miles of road. All we're doing tonight with this budget is just keeping the department open. We don't have to send pink slips home. We're just trying to find a way to keep things going. There is good debate and good reasons on both sides regarding whether we should have additional funding through taxes or whatever it might be. That's for another day. I think tonight we need to do what we can do just to keep things going in the status quo. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (H-539). 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 (#206)

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

NAYS: Senators: COURTNEY, NASS, PLOWMAN, RAYE, SMITH

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

28 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, Committee Amendment "A" (H-539), **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-539), in concurrence.

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with 5 Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and signed by the President, 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:

Act

An Act To Implement Tax Relief and Tax Reform
H.P. 1051 L.D. 1495

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 (#207)

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

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

ABSENT: Senator: DAVIS

EXCUSED: Senator: SHERMAN

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 408

**124th LEGISLATURE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

June 10, 2009

Honorable Joy O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary O'Brien:

Pursuant to my authority under Title 3, MRSA, §168-A, I am pleased to appoint the following Senators to the Legislative Youth Advisory Council:

Senator Nancy Sullivan of York, replacing Senator Joseph Perry of Penobscot
Senator David Trahan of Lincoln, replacing Senator Paula Benoit of Sagadahoc

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 409

**124th LEGISLATURE
OFFICE OF THE PRESIDENT
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0003**

June 11, 2009

Honorable Joy J. O'Brien
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary O' Brien:

With reference to the Committee of Conference on the disagreeing action of the two braches of the Legislature on Bill "An Act To Clarify the Role of the Public Advocate" (H.P. 657) (L.D. 954), please be advised that I have temporarily rescinded my appointment of Senator Roger Sherman of Aroostook and have replaced him with Senator Douglas Smith of Piscataquis until further notice.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

READ and ORDERED PLACED ON FILE.

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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Encourage Renewable Energy Investment"

H.P. 660 L.D. 958

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

Signed:

Senators:
SCHNEIDER of Penobscot
SULLIVAN of York
RECTOR of Knox

Representatives:

WRIGHT of Berwick
AUSTIN of Gray
MacDONALD of Boothbay
PRESCOTT of Topsham
HUNT of Buxton
CLEARY of Houlton
GILES of Belfast
COHEN of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-577)**.

Signed:

Representatives:

SMITH of Monmouth
MARTIN of Orono

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

Reports **READ**.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, Directing the Department of Transportation To Request Federal Funding for the Extension and Completion of Interstate 95 (EMERGENCY)

S.P. 283 L.D. 736
(C "A" S-60)

In Senate, April 16, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-60)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-60) AS AMENDED BY HOUSE AMENDMENT "B" (H-575)** thereto, in **NON-CONCURRENCE**.

Senator **DAMON** of Hancock moved the Senate **RECEDE** and **CONCUR**.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'd like to pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **NASS:** Thank you, Madame President. There are two stories going around about this. One story says that there is extra federal stimulus money coming in and this bill is essentially going to shoot it all north. That is one story. The other story is that we already have earmarks that they are going to do the Presque Isle and Caribou by-passes. Which is the true story, Madame President?

THE PRESIDENT: The Senator from York, Senator Nass 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, with regards to future stimulus money, this bill, as the amendment describes, does not mandate that this money goes into any one project but it does say that there are a number of, I forget the exact words, significant or substantial projects throughout the state that would be eligible for those future stimulus-type monies. With regards to the gentleman's other question pertaining to earmarks, it is true that over the course of a number of authorizations of our federal highway transportation monies there have been earmarks that have been set for those projects. I can think of one in particular that was for \$33 million. Whether or not the money that has been set aside for those projects is all the result of the federal earmarks I could not say for sure, but I am told that there is money available to complete the Caribou by-pass project and there is some money available, but not enough for the entire project for the Presque Isle by-pass. That's the update that I can give you on those. I hope that's helpful, Madame President.

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

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

SECOND READERS

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

Senate

Bill "An Act To Clarify the Rights of Bondholders and Noteholders in the Event a School Administrative Unit with Outstanding Bonds or Notes Is Dissolved or Is No Longer Authorized by Law"
S.P. 572 L.D. 1493

READ A SECOND TIME.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, without reference to a Committee.

Senate at Ease.

Senate called to order by the President.

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 Improve Opportunity in the Maine Woods
H.P. 1049 L.D. 1492
(S "A" S-333)

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

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

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 Role of the Public Advocate"

H.P. 657 L.D. 954

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

That the House **Recede** and **Concur** with the Senate.

That the Senate **Read** and **Accept** the Report.

On the Part of the Senate:

Senator **HOBBS** of York
Senator **BOWMAN** of York
Senator **SMITH** of Piscataquis

On the Part of the House:

Representative **WAGNER** of Lewiston
Representative **THIBODEAU** of Winterport

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-165) AS AMENDED BY SENATE AMENDMENT "A" (S-260)** thereto.

Report **READ** and **ACCEPTED**, 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 Update Department of Defense, Veterans and Emergency Management Laws

H.P. 931 L.D. 1327
(H "A" H-467 to C "A" H-390;
H "A" H-567)

An Act To Amend the Charter of the Limestone Water and Sewer District

H.P. 1050 L.D. 1494

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

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

COMMUNICATIONS

The Following Communication: S.C. 410

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOUR LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

June 10, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Agriculture, Conservation and Forestry during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	71
Unanimous Reports	42
Ought to Pass	3
Ought to Pass as Amended	22

Ought Not to Pass 17

Divided Reports 18

Leave to Withdraw 3

Carry Overs 5

Gubernatorial Nominations 3

Respectfully submitted,

S/John M. Nutting
Senate Chair

S/Wendy Pieh
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 411

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC
DEVELOPMENT**

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Business, Research & Economic Development during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 99

Unanimous Reports 70

Ought to Pass 7

Ought to Pass as Amended 35

Ought Not to Pass 28

Divided Reports 12

Leave to Withdraw 4

Carry Overs 7

Gubernatorial Nominations 6

Respectfully submitted,

S/Elizabeth M. Schneider
Senate Chair

S/Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 412

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

June 10, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Criminal Justice & Public Safety during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 86

Unanimous Reports 69

Ought to Pass 4

Ought to Pass as Amended 29

Ought Not to Pass 36

Divided Reports 14

Pursuant to Jt. Rule 309 1

Carry Overs 2

Respectfully submitted,

S/Stanley J. Gerzofsky
Senate Chair

S/Anne M. Haskell
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 413

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

June 10, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Education and Cultural Affairs during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	142
Unanimous Reports	97
Ought to Pass	7
Ought to Pass as Amended	33
Ought Not to Pass	57
Divided Reports	29
Leave to Withdraw	1
Carry Overs	4
Joint Study Orders	3
Gubernatorial Nominations	8

Respectfully submitted,

S/Justin L. Alford
Senate Chair

S/Patricia B. Sutherland
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 414

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Health & Human Services during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	148
Unanimous Reports	117
Ought to Pass	14
Ought to Pass as Amended	40
Ought Not to Pass	63

Divided Reports	19
Leave to Withdraw	1
Committee Bill (Joint Order)	1
Carry Overs	10

Respectfully submitted,

S/Joseph C. Brannigan
Senate Chair

S/Anne C. Perry
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 415

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

June 10, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Inland Fisheries and Wildlife during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	73
Unanimous Reports	50
Ought to Pass	2
Ought to Pass as Amended	22
Ought Not to Pass	26
Divided Reports	19
Leave to Withdraw	1
Carry Overs	1
Gubernatorial Nominations	2

Respectfully submitted,

S/Bruce S. Bryant
Senate Chair

S/Herbert E. Clark
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 416

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Insurance & Financial Services during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	73
Unanimous Reports	52
Ought to Pass	4
Ought to Pass as Amended	23
Ought Not to Pass	25
Divided Reports	14
Leave to Withdraw	1
Carry Overs	6

Respectfully submitted,

S/Peter B. Bowman
Senate Chair

S/Sharon A. Treat
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 417

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Labor during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	66
Unanimous Reports	45
Ought to Pass	6
Ought to Pass as Amended	23
Ought Not to Pass	16
Divided Reports	6
Leave to Withdraw	3
Carry Overs	4
Gubernatorial Nominations	8

Respectfully submitted,

S/Troy D. Jackson
Senate Chair

S/John L. Tuttle Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 418

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Legal and Veterans Affairs during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	128
Unanimous Reports	84
Ought to Pass	1
Ought to Pass as Amended	34
Ought Not to Pass	49
Divided Reports	31
Leave to Withdraw	4

Committee Bill (Joint Order) 1
Carry Overs 8

June 11, 2009

Respectfully submitted,

S/Nancy B. Sullivan
Senate Chair

S/Pamela Jabar Trinward
House Chair

READ and ORDERED PLACED ON FILE.

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Marine Resources during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

The Following Communication: S.C. 419

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON MAINE'S ENERGY FUTURE**

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Select Committee on Maine's Energy Future during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers 13

Unanimous Reports 10
Ought to Pass as Amended 1
Ought Not to Pass 9

Committee Bill (Joint Order) (1 Divided) 3

Respectfully submitted,

S/Philip L. Bartlett, II
Senate Chair

S/John L. Martin
House Chair

READ and ORDERED PLACED ON FILE.

Total Number of Bills and Papers 30

Unanimous Reports 17
Ought to Pass 1
Ought to Pass as Amended 10
Ought Not to Pass 6

Divided Reports 5

Committee Bill (Joint Order) 1
Carry Overs 2
Gubernatorial Nominations 5

Respectfully submitted,

S/Dennis S. Damon
Senate Chair

S/Leila J. Percy
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 421

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Natural Resources during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

The Following Communication: S.C. 420

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

LEGISLATIVE RECORD - SENATE, THURSDAY, JUNE 11, 2009

Total Number of Bills and Papers	70
Unanimous Reports	48
Ought to Pass	2
Ought to Pass as Amended	21
Ought Not to Pass	25
Divided Reports	17
Leave to Withdraw	1
Carry Overs	2
Gubernatorial Nominations	2

Respectfully submitted,

S/Seth A. Goodall
Senate Chair

S/Robert S. Duchesne
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 422

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on State and Local Government during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	82
Unanimous Reports	50
Ought to Pass	5
Ought to Pass as Amended	19
Ought Not to Pass	26
Divided Reports	29
Carry Overs	1
Gubernatorial Nominations	2

Respectfully submitted,

S/Deborah L. Simpson
Senate Chair

S/Stephen R. Beaudette
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 423

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Taxation during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	124
Unanimous Reports	91
Ought to Pass	2
Ought to Pass as Amended	26
Ought Not to Pass	63
Divided Reports	20
Leave to Withdraw	1
Carry Overs	12

Respectfully submitted,

S/Joseph C. Perry
Senate Chair

S/Thomas R. Watson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 424

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

June 11, 2009

LEGISLATIVE RECORD - SENATE, THURSDAY, JUNE 11, 2009

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

Ought to Pass as Amended 38
 Ought Not to Pass 18

Divided Reports 4
 Carry Overs 4

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Transportation during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Respectfully submitted,

S/Barry J. Hobbins
 Senate Chair

S/Jon Hinck
 House Chair

Total Number of Bills and Papers	104
Unanimous Reports	78
Ought to Pass	13
Ought to Pass as Amended	25
Ought Not to Pass	40
Divided Reports	22
Leave to Withdraw	2
Gubernatorial Nominations	2

READ and ORDERED PLACED ON FILE.

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 Maine Children's Growth Council

H.P. 671 L.D. 969
 (C "A" H-159; S "A" S-318)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, is presented by the Secretary to the Governor for his approval.

Respectfully submitted,

S/Dennis S. Damon
 Senate Chair

S/Edward J. Mazurek
 House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 425

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

June 11, 2009

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

Dear President Mitchell and Speaker Pingree:

We are pleased to report that all business which was placed before the Joint Standing Committee on Utilities and Energy during the First Regular Session of the 124th Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	71
Unanimous Reports	63
Ought to Pass	7

ORDERS OF THE DAY

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-424)**, in concurrence.)

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

On further motion by same Senator, **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Fund the Maine Downtown Center
H.P. 75 L.D. 91
(C "A" H-91)

Tabled - May 5, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-91)**, in concurrence.)

(In House, April 30, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Include Independent Practice Dental Hygienists in MaineCare
H.P. 187 L.D. 233
(C "A" H-129)

Tabled - May 12, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 5, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-129)**, in concurrence.)

(In House, May 7, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-258)**.)

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

On further motion by same Senator, **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Improve Tribal-State Relations
H.P. 333 L.D. 445
(C "A" H-516)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-516)**, in concurrence.)

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

On further motion by same Senator, **COMMITTED** to the Committee on **JUDICIARY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Remove the Sales Tax on Certain Watercraft
H.P. 473 L.D. 659
(C "A" H-398)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-398)**, in concurrence.)

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

On further motion by same Senator, **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan

H.P. 484 L.D. 701
(C "A" H-250)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 18, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-250)**, in concurrence.)

(In House, May 20, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs

S.P. 305 L.D. 791
(C "A" S-193)

Tabled - May 29, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 26, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-193)**.)

(In House, May 29, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities

S.P. 481 L.D. 1335
(C "A" S-150)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 13, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150)**.)

(In House, May 18, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act To Expand Tax Incentives for Visual Media Productions

H.P. 1005 L.D. 1449
(C "A" H-554)

Tabled - June 10, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, June 8, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-554)**, in concurrence.)

(In House, June 10, 2009, **PASSED TO BE ENACTED.**)

On further motion by same Senator, **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-364)**, in concurrence.)

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

On further motion by same Senator, **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

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

Emergency Measure

Resolve, To Review Changing the Duties of the State Board of Education

H.P. 900 L.D. 1297
(C "A" H-478)

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

Pending - **FINAL PASSAGE**, in concurrence

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

(In House, June 4, 2009, **FINALLY PASSED**.)

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

On further motion by same Senator, 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-478), in concurrence.

On further motion by same Senator, Senate Amendment "B" (S-339) to Committee Amendment "A" (H-478) **READ** and **ADOPTED**.

Committee Amendment "A" (H-478) as Amended by Senate Amendment "B" (S-339) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478) AS AMENDED BY SENATE AMENDMENT "B" (S-339) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

Bill "An Act To Clarify the Rights of Bondholders and Noteholders in the Event a School Administrative Unit with Outstanding Bonds or Notes Is Dissolved or Is No Longer Authorized by Law"
S.P. 572 L.D. 1493

Tabled - June 11, 2009, by Senator **BARTLETT** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, June 11, 2009, **READ A SECOND TIME**.)

On motion by Senator **ALFOND** of Cumberland, Senate Amendment "A" (S-346) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-346), without reference to a Committee.

Ordered sent down forthwith for concurrence.

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

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Friday, June 12, 2009, at 10:00 in the morning.