

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

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

Pages 1 - 1159

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

In Senate Chamber
Friday
June 12, 2009

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

Prayer by Reverend Kate Braestrup, Chaplain, Maine Warden
Service.

REVEREND BRAESTRUP: Good morning. Before I begin my prayer I would like to extend my particular appreciation to those of you who do not count yourselves as church goers or as believers in any traditional sense. Your acceptance of my presence in your chamber speaks of tolerance and generosity. Thank you for having me. Join me as you will in a spirit of prayer. Gracious God, St. Francis of Assisi once admonished Your people to pray without ceasing. If necessary, he said, use words. In this moment, with these mere words, I give You thanks. Thank You for the ceaseless prayers of human lives lived bravely in love. Thank You for the courage and compassion You have planted in the human heart. May these seeds find rich and humble soil, may they grow and flower. You have offered each man and woman in this room diverse paths and manifold opportunities to protect and serve, to work for justice, to relieve suffering, to ensure human dignity and enhance well being. May the work done here on behalf of the people of the State of Maine be the finest, most consistent and most enduring prayer anyone could offer. May each of us make prayers of our lives as well as our words. Amen.

Reading of the Journal of Thursday, June 11, 2009.

Doctor of the day, Dr. Kathleen S. Thibault, DO of Dover-Foxcroft.

Off Record Remarks

COMMUNICATIONS

The Following Communication: H.C. 224

**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 House voted today to insist on its previous action whereby RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature (H.P. 123) (L.D. 144) Failed of Final Passage.

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act To Ensure Benefits for State Retirees"
(EMERGENCY)

S.P. 573 L.D. 1496

Presented by President MITCHELL of Kennebec.
Cosponsored by Speaker PINGREE of North Haven and
Representative: TUTTLE of Sanford.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

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

READ ONCE, without reference to a Committee.

**ASSIGNED FOR SECOND READING LATER IN TODAY'S
SESSION.**

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **NATURAL RESOURCES** on
Bill "An Act To Establish Climate and Energy Planning in Maine"
H.P. 937 L.D. 1333

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-514).**

Signed:

Senators:
GOODALL of Sagadahoc
SIMPSON of Androscoggin

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B"** (H-515).

Signed:

Senator:

SMITH of Piscataquis

Representatives:

HAMPER of Oxford
KNAPP of Gorham
EDGEComb of Caribou
AYOTTE of Caswell

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-514) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-514) **AS AMENDED BY HOUSE AMENDMENT "B"** (H-574) thereto.

Reports **READ**.

On motion by Senator **GOODALL** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-514) Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-514) **READ**.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-514), in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Provide Free Admission to State Parks to All Maine Veterans" (EMERGENCY)

H.P. 1043 L.D. 1488

Reported that the same **Ought to Pass as Amended by Committee Amendment "A"** (H-572).

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

GIFFORD of Lincoln
McCABE of Skowhegan
PIEH of Bremen
SMITH of Monmouth
EDGEComb of Caribou
CRAY of Palmyra
O'BRIEN of Lincolnville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B"** (H-573).

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford

Representatives:

PERCY of Phippsburg
KENT of Woolwich

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-572) Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-572).

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-572) Report, in concurrence.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, this bill was let into our legislative session really, really late in the process. There are still some concerns by those of us on the minority report over implementation of this bill. There is great frustration in our Agriculture, Conservation and Forestry Committee that somehow the press got a hold of this issue and put out there that our Committee had taken benefits for veterans away that they used to receive, which is not accurate and I want to put these comments on the record just to clarify that. I do think with a few bumps in the road that we can have all veterans get free passes to our state parks. I think it may be a little rough and bumpy at the beginning because we are talking about up to 75,000 veterans in Maine being able to get a free pass. I do think with an amendment that I am hoping to be offering a little bit later on, it will make this majority report better and I think this is a benefit that a lot of veterans, I am hopeful, will take advantage of. We now already give a free pass to those veterans who are over 65. We now give a free pass to those veterans who are disabled and since 2005, with the Senator from Oxford, Senator Bryant's bill, we have given a free pass to those on active duty. We have extended that active duty earlier this session with a different LD. We have met several times with General Libby and the Department of Conservation on this bill and the genesis of an

amendment we will be talking about a little bit later on. I did want to get some comments on the record. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. I just want to say that I am pleased that we have taken the time to do this. We all talk about honoring our veterans and I believe that there has been an enormous amount of work that has gone into this to honor our veterans and do it the right way. I agree there will be bumps during this tourist season coming up, but after that this is going to be extremely smooth and it is an honor to be able to vote for this and for our veterans. We should make sure that we honor them each day when we see them and offering this is a tremendous thing. Thank you.

On motion by Senator **NUTTING** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-572)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-572) **READ.**

On motion by Senator **BLISS** of Cumberland, Senate Amendment "A" (S-340) to Committee Amendment "A" (H-572) **READ.**

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, sometimes it takes more than one try to get things right, God knows, but I think this time we have finally gotten it right. I am delighted that we are finally taking the time to say to all of those men and women who have served from Maine thanks for working so hard for us in all of those wars and conflicts and other actions. This bill acknowledges that some veterans may have inadvertently been left out of our earlier efforts. The Committee Amendment, which I thank the Senator from Androscoggin and his Committee heartily for, moves us in the right direction and it gives the Department up to six months to create passes that will be distributed to veterans. This amendment says if you are a veteran and you make a good faith effort to show some identification during that short six-month interim that it will be good enough for a pass for the day to get into a state beach or a state park. I think it's the least we can do for veterans. I am delighted to be able to offer this amendment and I urge you to support it. Thank you.

On motion by same Senator, Senate Amendment "A" (S-340) to Committee Amendment "A" (H-572) **ADOPTED.**

Committee Amendment "A" (H-572) as Amended by Senate Amendment "A" (S-340) 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-572) AS AMENDED BY SENATE AMENDMENT "A" (S-340)** thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

Off Record Remarks

ENACTORS

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

Emergency Measure

An Act Regarding the Pay of Tribal Representatives
S.P. 512 L.D. 1428
(S "A" S-331 to C "A" S-256)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act To Protect Maine Citizens and Franchised New Car and Truck Dealers
S.P. 571 L.D. 1491

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Expand Access to Renewable Energy Programs
H.P. 581 L.D. 845
(S "A" S-328 to C "A" H-158)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings

S.P. 357 L.D. 935
(S "A" S-329 to C "A" S-155)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Establish the Study Commission Regarding Teachers' Compensation

H.P. 367 L.D. 522
(S "A" S-317 to C "A" H-420)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

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

H.P. 747 L.D. 1080
(S "A" S-319 to C "A" H-489)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Establish the Task Force on Kinship Families

H.P. 770 L.D. 1115
(C "A" H-147; S "A" S-320)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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.

Acts

An Act To Amend the Laws Governing Tournament Games

H.P. 158 L.D. 193
(S "A" S-323 to C "A" H-84)

An Act To Track the Prevalence of Childhood Obesity in Maine

H.P. 255 L.D. 319
(S "B" S-164; S "C" S-324
to C "A" H-130)

An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles

S.P. 135 L.D. 393
(S "A" S-325 to C "A" S-132)

An Act Regarding Alcoholic Beverage Tastings

H.P. 353 L.D. 498
(H "C" H-545; S "A" S-326
to C "A" H-281)

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

H.P. 447 L.D. 633
(S "A" S-327 to C "A" H-201)

An Act To Establish a Health Care Bill of Rights

H.P. 830 L.D. 1205
(S "B" S-332 to C "A" H-446)

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
(S "A" S-337 to C "A" H-413)

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

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
(S "A" S-330 to C "A" H-353)

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

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (6/11/09) Assigned matter:

Emergency Measure

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

Tabled - June 11, 2009, by Senator **JACKSON** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, June 11, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-333)**, in **NON-CONCURRENCE**.)

(In House, June 11, 2009, **PASSED TO BE ENACTED**.)

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I guess I would like to apologize in advance for maybe taking a little bit longer than I really need to on this bill, but it has been something throughout the time that I have been in Augusta that has been an important issue to me. I would like to say a few words about it before we dispose of it. What seems like quite a long time ago, back in 1998, after years and years of people in my area working in the woods and the logging industry, and probably not receiving what they should have for their efforts, going through work stoppages and strikes, I've seen a lot of good people leave an industry where there was all kinds of money to be made because they couldn't get wages for the type of work that they were doing. In 1998 a group of us who were frustrated with the whole thing ended up blocking three ports of entry on the Canadian border and protesting the use of foreign labor. Regardless of whether it was right or stupid or whatever, because of that there was an extensive study that came out that was done by the Pan Atlantic Group. In that study, one of the things that I found really useful was that it said in the last 20, which now would be 30 years landowner profits had risen 169%, worker productivity had gone up 74% and also in that time workers' wages had dropped 32%. I think that was a pretty telling issue, that people were working hard, some people were making a lot more money, but the ones who were actually doing the work were receiving less for their efforts while their costs had continued to rise. These people are the small businessmen that everyone in here claims to want to support. They are the owner operators of anywhere from \$200,000 to \$2 million worth of equipment. I got elected in 2002 on that issue. I'm not really anything that I would consider extraordinary, or anything like that. I'm just a guy that works in the woods and knew a little bit about it and was willing to

open his big mouth. That's basically why I got elected. In that first session I came down here thinking that I could change the world. We put a bill in that I thought was a way to help and what it did was give independent contractors, who at this time in every industry do not have the right to organize. It would give independent contractors the ability to organize to talk about wages, because what would happen a lot of time is you would have one huge landowner come in and single everybody out, and people would go to work for what they didn't want to work for, but they were caught in a situation. They were caught in financial slavery. They had payments that they had to make and the accepted rates just weren't good. If you tried to get together, if you tried to just have a couple of guys in a group, because there is strength in numbers, I think everyone realizes that, you feel a little taller if you are standing alongside of somebody else. But the landowners didn't want that, they wanted people singled out because it was easier to break them down. We had that bill that allowed for independent contractors in the logging industry to bargain together, that's all it was. It didn't say there would be anymore money or anything like that, but they could bargain together. I was in the House at the time, and it went through the House fairly easily, by a 20 or 25 vote margin, but it was in the Senate where the real problem was. There were tight numbers then and I remember spending a lot of time over here trying to lobby people to get it passed. I convinced about 60 of those contractors in northern Maine to come down and spend about two weeks here so we could put names to faces and not just have people look at me, but also look at the guy that was really affected. We were in the Senate here, and it was the first time I ever saw it, of course I wasn't in the Senate because it was my first session, but I haven't seen it since then either. Maybe it has happened, but I haven't seen it in the year that I have been here in the Senate, but when the vote was taken three members didn't vote, but they were sitting in their seats. Senate President Daggett actually had to call the roll, and I remember at the time the Senator from Hancock, Senator Damon, and former Senators Mayo and Lamont hadn't voted. It was really intense. They took the vote and we still didn't know really what the numbers were going to be. It ended up that the Senator from Hancock voted for it and Senator Lamont voted for it, and that gave us 18 and it was huge. People felt better about it. Immediately after that things did change. I don't know if they changed in a good way, but people at least felt better that they had at least stopped the downward push on wages. What happened as a result of that was companies didn't want to lose that control, which is always what it was about, it wasn't about money, it was about control, and they went out and bought all kinds of equipment. Millions and millions of dollars worth of equipment, wouldn't talk, would never get together to talk about wages and just said they would do it themselves. The bill was in effect for four years, and they tried to do it themselves with all of this equipment and some other contractors, and what they found out was they couldn't do it cheaper themselves. They got rid of a lot of that equipment. A lot of the equipment was just ruined, banged up, it wasn't useful any more, and they needed those guys. They couldn't do it for less so they came down last session, markets were bad and times were tough, and they said that we need to get rid of this law because it's affecting everything and if you don't, then we will probably have to close down a mill. So we suspended the bill for a year because times were tough, and lo and behold that mill is gone now. It got closed anyway. Here we are, back this session, June 1 came and the bill went back into effect. The bill has never been

used. It's never cost anyone any direct money and we're being told that if we don't get rid of this legislation that we're not going to start in the north woods. This doesn't just affect those contractors that the bill was working to help, it also affects those people who are employees. We've got a lot of people up there who are upset. They are worried that they are still not going to be able to make their payments. One of the contractors sent me down a letter, he doesn't want his name used for obvious reasons, but it says "we have worked exhaustively with this landowner over the last month to come to a legislative solution to the issues related to L.D. 1318, but have been unable to reach any compromises. In the best interest of the families they employ the contractors of this landowner have voted to have the Legislature repeal L.D. 1318. It is their hope that this show of good faith will result in fair negotiations based on realistic and accurate cost analysis of business expenses, which is not the case at this time." I never thought back then, six or seven years ago being in the House, and coming into the Senate and trying to help get that passed that I would actually be back in the Senate getting rid of it. For me I guess that's unfortunate, but I guess it just illustrates the problem that we do have in this industry. It's funny to me, like I said, that with small businesses, we have all of these different groups that rate how we're doing with small business, but no one rates this field. These people I think are the small businesses that people talk about here in Maine. It's just really unfortunate to me that we have to do this today. I guess the idea for me, and I'm sure everyone in this Chamber has got reasons why they came here and things that they wanted to do, but I guess I will just sit down now and we'll let the boss man have what he wants. Thank you.

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with 5 Senators having voted in the negative, and 27 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.

Senate at Ease.

Senate called to order by the President.

All matters thus acted upon were 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.

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Establish Climate and Energy Planning in Maine"

H.P. 937 L.D. 1333

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-514)** (8 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-515)** (5 members)

Tabled - June 12, 2009, by Senator **GOODALL** of Sagadahoc

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-514)**, in **NON-CONCURRENCE**

(In House, June 11, 2009, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY HOUSE AMENDMENT "B" (H-574)** thereto.)

(In Senate, June 12, 2009, Reports **READ**. On motion by Senator **GOODALL** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514)** Report **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-514) **READ**.)

House Amendment "B" (H-574) to Committee Amendment "A" (H-514) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "A" (S-348) to Committee Amendment "A" (H-514) **READ**.

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

Senator **SMITH:** Thank you, Madame President. I just wanted to rise to say a few words about this. I am in favor of the action that is being taken here. This is the bill that, depending on how you looked at it, it's either the bill to save the world or the bill to end the world. It has now morphed into a culvert bill and I think it's probably the best thing that could happen to it. I think this is a good solution that has been worked hard on by the Committee and I think that patience and perseverance has given us the best possible result that we could have on this bill and I'm very much in favor of the action that is being moved here today. Thank you.

On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "A" (S-348) to Committee Amendment "A" (H-514) **ADOPTED**.

Committee Amendment "A" (H-514) as Amended by Senate Amendment "A" (S-348) and House Amendment "B" (H-574) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY SENATE AMENDMENT "A" (S-348) AND HOUSE AMENDMENT "B" (H-574) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

ORDERS

Joint Order

On motion by Senator **PERRY** of Penobscot, the following Joint Order:

S.P. 574

ORDERED, the House concurring, that Bill, "An Act To Modernize the Tax Laws and Provide over \$75,000,000 to Residents of the State in Tax Relief," H.P. 750, L.D. 1088, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ.

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

Senator **PERRY:** Thank you, Madame President. This Joint Order does nothing more than recall the no longer needed L.D. 1088 from the Governor's desk. Thank you.

On motion by Senator **PERRY** of Penobscot, **PASSED**.

Ordered sent down forthwith for concurrence.

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

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

ENACTORS

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

Resolve

Resolve, Directing the Department of Transportation To Secure Funding To Complete the Aroostook North-South Highway Project

S.P. 283 L.D. 736
(H "B" H-575 to C "A" S-60)

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:

SECOND READERS

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

Senate

Bill "An Act To Ensure Benefits for State Retirees" (EMERGENCY)

S.P. 573 L.D. 1496

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

Sent down for concurrence.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Laws Governing Bottle Redemption and To Establish the Department of Agriculture, Food and Rural Resources as the Agent in the State for the Purposes of Bottle Redemption"

S.P. 139 L.D. 397
(C "A" S-270)

In Senate, June 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270).**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AS AMENDED BY HOUSE AMENDMENT "C" (H-564)** thereto, in **NON-CONCURRENCE**.

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1052

ORDERED, the Senate concurring, that Bill, "An Act To Clarify Standards by Which Game Wardens May Stop All-terrain Vehicles," H.P. 244, L.D. 308, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) H.P. 1028 L.D. 1475

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-579)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579)**.

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

READ ONCE.

Committee Amendment "A" (H-579) **READ** and **ADOPTED**, in concurrence.

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

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

COMMUNICATIONS

The Following Communication: S.C. 427

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

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 Judiciary 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		119
Unanimous Reports		93
Ought to Pass	10	
Ought to Pass as Amended	45	
Ought Not to Pass	38	
Divided Reports		9
Leave to Withdraw		2
Carry Overs		4
Gubernatorial Nominations		11

Respectfully submitted,

S/Lawrence S. Bliss
Senate Chair

S/Charles R. Priest
House Chair

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 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
(S "A" S-346)

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

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

ENACTORS

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

Emergency Measure

An Act To Provide Free Admission to State Parks to All Maine Veterans
H.P. 1043 L.D. 1488
(S "A" S-340 to C "A" H-572)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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 Review Changing the Duties of the State Board of Education
H.P. 900 L.D. 1297
(S "B" S-339 to C "A" H-478)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

ORDERS OF THE DAY

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

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

H.P. 34 L.D. 39
(C "A" H-39)

Tabled - April 28, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 14, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-39)**, in concurrence.)

(In House, April 16, 2009, **PASSED TO BE ENACTED.**)

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

Emergency Measure

An Act To Extend the Exception to Axle Fines during the Midwinter Season
S.P. 81 L.D. 240
(C "A" S-10)

Tabled - April 14, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, March 31, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-10).**)

(In House, April 9, 2009, **PASSED TO BE ENACTED.**)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Provide Placards to Drivers Who for Medical Reasons Are Not Required To Wear Seat Belts

H.P. 209 L.D. 263
(C "A" H-11)

Tabled - April 14, 2009, by Senator **DAMON** of Hancock
Pending - **ENACTMENT**, in concurrence

(In Senate, April 7, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-11)**, in concurrence.)

(In House, April 9, 2009, **PASSED TO BE ENACTED.**)

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-213)**.)

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

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Amend the Laws Governing Axle Weights
H.P. 605 L.D. 874
(C "A" H-223)

Tabled - May 18, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 12, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-223)**, in concurrence.)

(In House, May 14, 2009, **PASSED TO BE ENACTED.**)

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Add Combat Action Badges and Ribbons to the Special Commemorative Decals for Veterans License Plates

H.P. 814 L.D. 1175
(C "A" H-264)

Tabled - May 21, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 18, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-264)**, in concurrence.)

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

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

An Act To Amend the Motor Vehicle Laws

S.P. 438 L.D. 1190
(C "A" S-176)

Tabled - May 28, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, May 21, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176)**.)

(In House, May 28, 2009, **PASSED TO BE ENACTED.**)

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

On motion by Senator **DAMON** of Hancock, the Senate removed from the **SPECIAL HIGHWAY TABLE** the following:

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

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

Tabled - June 8, 2009, by Senator **DAMON** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-202) AS AMENDED BY HOUSE AMENDMENT "A" (H-521)** thereto, in concurrence.)

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

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

HOUSE REPORT - from the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Surcharge for the E-9-1-1 System" (EMERGENCY)

H.P. 210 L.D. 264

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-437)**

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

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

(In House, May 29, 2009, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-437).**)

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

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-437) **READ** and **ADOPTED**, in concurrence.

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

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

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

An Act Concerning Technical Changes to the Tax Laws
H.P. 755 L.D. 1093
(C "A" H-476)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 1, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476)**, in concurrence.)

(In House, June 4, 2009, **PASSED TO BE ENACTED.**)

On motion by Senator **PERRY** of Penobscot, 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-476)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-315) **READ.**

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

Senator **PERRY:** Thank you, Madame President. I will just briefly tell my colleagues here in the Senate what this amendment does. This is the technical change bill that we had in Taxation that we generally save for the very last day and use for a catch-all for any technical changes. As we discussed through the debate on tax reform this will be a long complicated process, but the Taxation Committee will be following it all the way through to implementation. We have a couple of issues that we would like to address right now. Senate Amendment "A" does in fact make it perfectly clear that non-Maine residents will still be paying the Maine income tax when due. It also makes perfectly clear that horses are not pets. We are adopting an agricultural law that says livestock are not pets and equine are livestock. That's what this amendment does. Thank you.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, it is my pleasure to agree with the

Senate Chair of Taxation and just point out that we did bring the Senate's attention to these rule problems. There were some folks at the time who said they weren't really problems, so we are really pleased to see that we are fixing these not so big problems right now, before they get to be big problems. It is our pleasure to support this and move forward because these are important, \$90 million problems. Thank you.

On motion by Senator **PERRY** of Penobscot, Senate Amendment "A" (S-315) **ADOPTED**.

On further motion by same Senator, Senate Amendment "B" (S-341) **READ**.

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

Senator **PERRY:** Thank you, Madame President. I will just briefly explain what this is. One of the elements of the tax reform package is to impose a sales tax on state-to-state long distance calling. That is something that most states do nowadays, but most states did not in the past because it was always believed that you could tax long distance calls within a state, but when you went state-to-state or international, that was interstate commerce and states were not allowed to tax it. Somewhere along the way it was figured out that states were allowed to tax interstate calls, almost all states have gone to that. We are now joining that standard within tax reform. This amendment just makes it clear that any phone companies, their existing records of how they classify their customers, be it business or residential, however they classify them is sufficient if they were to be audited and there were any questions. Let me back up just a little bit. We are not taxing business state-to-state calls. Business state-to-state calls are exempt. This is only for residential, so if a phone company had on record that someone was a business and Maine Revenue questioned that maybe it was residential and there should be a tax due, their existing classifications are sufficient to say that it's not a problem. That's all this amendment does. Thank you.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, again this is probably the first of, I would guess, what will be hundreds of these things that we will see. This is what is called a pre-emptive audit protection kind of amendment. I assume it was brought by the industry and it's probably a good thing for people who have a potentially big bill at stake here. This is pre-emptive and tax reform is so difficult and so detailed and so complicated, and I won't use another adjective, that we are going to see a lot of these I think. I am supportive of this. Thank you.

On motion by Senator **PERRY** of Penobscot, Senate Amendment "B" (S-341) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476) AND SENATE AMENDMENTS "A" (S-315) AND "B" (S-341), in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

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

JOINT RESOLUTION - memorializing Certain National Private Entities to Honor Maine Baseball Great Louis Sockalexis and to Afford Appropriate Respect to Native American Athletes
H.P. 1045

Tabled - June 10, 2009, by Senator **RAYE** of Washington

Pending - **ADOPTION**, in concurrence

(In House, June 10, 2009, **READ** and **ADOPTED**.)

(In Senate, June 10, 2009, **READ**.)

On motion by Senator **RAYE** of Washington, Senate Amendment "A" (S-334) **READ** and **ADOPTED**.

ADOPTED as Amended by Senate Amendment "A" (S-334), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

An Act To Clarify Land Use Regulation in Unorganized and Deorganized Townships

H.P. 301 L.D. 413
(C "A" H-383)

Tabled - June 10, 2009, by Senator **BRYANT** of Oxford

Pending - **ENACTMENT**, in concurrence

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-383)**, in concurrence.)

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

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

The Chair laid before the Senate the following Tabled and Later (6/11/09) 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** and **Concur** with **Passage to be Engrossed as Amended by Committee Amendment "A" (H-241)**.

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

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

(In House, June 9, 2009, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-241)**.)

(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, in the time that this bill has lingered here in the Senate and in Committee before that, it has had the advantage of having been read by competent co-counsel in the matter, from Oxford County, who observed that the bill either does absolutely nothing, in which case it shouldn't be passed and should not have a fiscal note, even if it is passed, or it does way too much and shouldn't be passed for that reason. It's very simple to understand and only requires a brief examination of the text of the bill to understand the point. The only words added by the bill are the words "public schools" to a list of structures that are construction projects covered by the prevailing wage law, and they are state-owned projects. For example, I assume when we rebuilt the capitol and the state office building a few years back that the prevailing wage law must certainly have applied. This bill, I think it's fair to say it was the intention of the proponents of the bill to cover the entire Maine public school system. That is all of the buildings, 700 or so, that are owned by school administrative districts and school units and towns. I think the people who wrote the fiscal note must have assumed that to be the case because the fiscal note that is still on the bill says that this is a rather extraordinary increment in cost to towns and school districts, but upon closer reading of the bill in committee the proponents of this legislation apparently realized that there was a drafting error and that the words "public schools" were included in a section that applied only to those things which are actually owned by the State. So, one might argue that that would include the Maine Maritime Academy, the Baxter School, maybe a school in the unorganized territory, but in point of fact the language of the existing law says that all buildings owned by the State are already covered by the existing prevailing wage law. It really raises the question whether we should pass this bill which inserts the words "public schools" into the law. Either it does absolutely nothing, because all schools are buildings and buildings are already covered, or do we risk engendering some confusion for future readers of this statute that we might have intended, or as I think the original draft had intended, to cover all public schools and thus incurring enormous fiscal implications. To me the bill is unnecessary to accomplish the present intent of the drafters and it certainly isn't a bill we would have passed in concurrence with the original intent. I don't think, if we were here discussing the prospect of the prevailing wage concepts to all

public schools in this state, we would have a room full of people protesting that proposition, and we would have an enormous fiscal note, as the original bill had. So, I suggest that we simply defeat the bill, because in the final analysis it seems unnecessary and why add more words to our statutes. I have to say, once more, that I want to express a deep acknowledgement to the good attorney from Oxford County. I am embarrassed to say that I am on the committee and it was my job to have read this thing and he read it for me. The minute he read it to me and explained it to me the lights flickered on, thus enabling me to explain it in the fashion I just have. Thank you.

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

Off Record Remarks

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

Senate at Ease.

Senate called to order by the President.

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:

Emergency Measure

An Act To Allow Military Personnel Living in Maine To Benefit under the Maine Resident Homestead Property Tax Exemption
H.P. 44 L.D. 51
(C "A" H-6)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, March 25, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-6)**, in concurrence.)

(In House, March 31, 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-6)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-342) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-6) AND SENATE AMENDMENT "A" (S-342), 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 Blue Ribbon Commission To Study Long-term Home-based and Community-based Care

S.P. 142 L.D. 400
(C "A" S-57)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, April 15, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-57)**.)

(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" (S-57)**.

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-57).

On further motion by same Senator, Senate Amendment "A" (S-343) to Committee Amendment "A" (S-57) **READ** and **ADOPTED**. Committee Amendment "A" (S-57) as Amended by Senate Amendment "A" (S-343) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-57) AS AMENDED BY SENATE AMENDMENT "A" (S-343) 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 Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation
H.P. 545 L.D. 796
(C "A" H-527)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527)**, in concurrence.)

(In House, June 8, 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-527)**, 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-527).

On further motion by same Senator, Senate Amendment "A" (S-344) to Committee Amendment "A" (H-527) **READ** and **ADOPTED**.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I hope this is appropriate but I only wish to read a few words into the record regarding this bill. This bill was proposed by the Passamaquoddy and Penobscot tribes to reinstate a prior practice that certain fines resulting from conduct on tribal territory were remitted to the respective tribes. This prior practice was discontinued when it became impractical to

administer within the new Judicial Branch computer system. With respect to this bill the Judicial Branch informed the Judiciary Committee that it is impossible, without a substantial expense, to identify whether or not a ticket was written within tribal territory. Because of that the Committee agreed to report out the amended bill before you that calls for fines to be remitted to the tribes when issued by a tribal officer where ever issued, either in or out of tribal territory. We discovered that the Judicial system can accommodate this without expense, the identity of the officer only. The original bill had requested that the fines, with respect to tickets within tribal territory only, however. Nevertheless the tribes involved did indicate to the Judiciary Committee that their intent was to limit the issuance of tickets subject to this law to tribal territory. In an effort to accommodate a result without incurring a substantial fiscal note, and based upon this representation, the Judiciary Committee reported out the bill in the form before you. Thank you.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, I rise simply to agree with my good friend from Oxford. I think it's very important that this piece be read into the record and I agree. Thank you.

Committee Amendment "A" (H-527) as Amended by Senate Amendment "A" (S-344) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527) AS AMENDED BY SENATE AMENDMENT "A" (S-344) 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 Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-301)**.)

(In House, June 8, 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-301).

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-301).

On further motion by same Senator, Senate Amendment "A" (S-345) to Committee Amendment "A" (S-301) **READ** and **ADOPTED**.

Committee Amendment "A" (S-301) as Amended by Senate Amendment "A" (S-345) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-301) AS AMENDED BY SENATE AMENDMENT "A" (S-345) 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 Establish a Distracted Driver Law
S.P. 15 L.D. 6
(C "A" S-126)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-126)**.)

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

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

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education

H.P. 69 L.D. 79
(C "A" H-49)

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" (H-49)**, in concurrence.)

(In House, May 20, 2009, **FINALLY PASSED**.)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 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.

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

An Act Regarding Violations of Lobster Conservation Laws
S.P. 87 L.D. 246
(C "A" S-20)

Tabled - April 15, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-20)**.)

(In House, April 14, 2009, **PASSED TO BE ENACTED**.)

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

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

An Act To Bring Equity to the Sea Urchin License Fees
S.P. 95 L.D. 278
(C "A" S-123)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-123)**.)

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

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

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 Regarding Early Voting

S.P. 114 L.D. 350
(C "A" S-35)

Tabled - May 7, 2009, by Senator **DIAMOND** of Cumberland

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

(In Senate, April 8, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-35)**.)

(In House, May 6, 2009, **FAILED FINAL PASSAGE**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#208)

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

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

EXCUSED: Senator: SHERMAN

This being a Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, having received the affirmative vote of 20 Members of the Senate, with 14 Senators having voted in the negative, and 20 being less than two-thirds of the Members present and voting, **FAILED FINAL PASSAGE**, in concurrence.

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

An Act To Allow the Licensing of Minibars in Hotel Rooms
H.P. 318 L.D. 430
(H "A" H-290 to C "A" H-134)

Tabled - May 21, 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-134) AS AMENDED BY HOUSE AMENDMENT "A" (H-290)** thereto, in concurrence.)

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

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

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

An Act To Increase the Jurisdictional Limit for Small Claims
H.P. 331 L.D. 443
(C "A" H-335)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-335)**, in concurrence.)

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

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

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

An Act To Include Commercial Silvicultural Crop Production in the Sales Tax Exemption for Certain Products Used in Commercial Agricultural Crop Production Activities
H.P. 338 L.D. 450
(C "A" H-74)

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-74)**, in concurrence.)

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

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

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

An Act To Amend the Tax Exemption Regarding Leased Property
S.P. 205 L.D. 545
(C "A" S-142)

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-142).**)

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

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

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

An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals
S.P. 254 L.D. 679
(C "A" S-135)

Tabled - May 28, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 12, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-135).**)

(In House, May 28, 2009, **PASSED TO BE ENACTED.**)

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

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

An Act To Authorize the Social Work Education Loan Repayment Program

H.P. 494 L.D. 711
(C "A" H-218)

Tabled - May 18, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 12, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-218)**, in concurrence.)

(In House, May 14, 2009, **PASSED TO BE ENACTED.**)

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

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

Emergency Measure

An Act To Encourage Maine Residents To Attend Medical School and Practice in Maine

S.P. 322 L.D. 853
(C "A" S-178)

Tabled - May 28, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 21, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-178)**.)

(In House, May 28, 2009, **PASSED TO BE ENACTED.**)

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.

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

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

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

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217)**.)

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

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

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

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

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

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" (H-372) AND HOUSE AMENDMENT "A" (H-421)**, in concurrence.)

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

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

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

Emergency Measure

An Act To Establish the Maine Commission on Indigent Legal Services

S.P. 423 L.D. 1132
(C "A" S-233)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-233)**.)

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

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.

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 Amend the Time Frame for Towns To Certify Citizen Initiative Signatures

H.P. 789 L.D. 1145
(C "A" H-176)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, May 6, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-176)**, in concurrence.)

(In House, May 12, 2009, **FINALLY PASSED**.)

This being a Constitutional Amendment, in accordance with the provisions of Section 4 of Article X of the Constitution, 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 Members present and voting, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Secretary of State for his approval.

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

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment

H.P. 803 L.D. 1164
(C "A" H-534)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534)**, in concurrence.)

(In House, June 8, 2009, **PASSED TO BE ENACTED**.)

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

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

An Act To Promote Youth Hunting License Sales

H.P. 865 L.D. 1246
(S "A" S-191 to C "A" H-276)

Tabled - May 28, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 21, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276) AS AMENDED BY SENATE AMENDMENT "A" (S-191)** thereto.)

(In House, May 28, 2009, **PASSED TO BE ENACTED**.)

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

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

An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects

H.P. 879 L.D. 1260
(C "A" H-535)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 4, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535)**, in concurrence.)

(In House, June 8, 2009, **PASSED TO BE ENACTED**.)

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

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

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)

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

Pending - **ENACTMENT**, in concurrence

(In Senate, June 10, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-570)**, in concurrence.)

(In House, June 11, 2009, **PASSED TO BE ENACTED.**)

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

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: H.C. 226

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

June 12, 2009

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

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on Education and Cultural Affairs on Bill "An Act To Repeal the School District Consolidation Laws" (I.B. 4) (L.D. 977)

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:

ENACTORS

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

Act

An Act To Clarify the Role of the Public Advocate
H.P. 657 L.D. 954
(S "A" S-260 to C "A" H-165)

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:

RECALLED FROM GOVERNOR'S DESK

An Act To Modernize the Tax Laws and Provide over \$50,000,000 to Residents of the State in Tax Relief
H.P. 750 L.D. 1088
(H "A" H-537 to C "A" H-530)

(In Senate, June 5, 2009, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (S.P. 574), in concurrence.)

On motion by Senator **PERRY** of Penobscot, the Senate **SUSPENDED THE RULES.**

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

On further motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

Sent down 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 Amend the Laws Governing Bottle Redemption
S.P. 139 L.D. 397
(H "C" H-564 to C "A" S-270)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#209)

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

EXCUSED: Senator: SHERMAN

33 Senators having voted in the affirmative and 1 Senator 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.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

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

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
(S "A" S-330 to C "A" H-353)

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

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

(In Senate, June 11, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-353) AS
AMENDED BY SENATE AMENDMENT "A" (S-330)** thereto, in
NON-CONCURRENCE.)

(In House, June 11, 2009, **FINALLY PASSED.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#210)

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

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

ABSENT: Senator: GOOLEY

EXCUSED: Senator: SHERMAN

25 Senators having voted in the affirmative and 8 Senators
having voted in the negative, with 1 Senator being absent and 1
Senator being excused, the Resolve was **FINALLY PASSED** and
having been signed by the President, was presented by the
Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later
Today 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** and **Concur** with
**Passage to be Engrossed as Amended by Committee
Amendment "A" (H-241).**

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

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

(In House, June 9, 2009, Report **READ** and **ACCEPTED** and Bill
**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (H-241).**)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#211)

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

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

EXCUSED: Senator: SHERMAN

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the Committee of Conference Report, **ACCEPTED**, in concurrence.

The Senate **RECEDED** and **CONCURRED**.

All matters thus acted upon were 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.

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 Measure

An Act To Correct Errors and Inconsistencies in the Laws of Maine

H.P. 1028 L.D. 1475
(C "A" H-579)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with no Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Emergency Measure

An Act To Amend the Surcharge for the E-9-1-1 System
H.P. 210 L.D. 264
(C "A" H-437)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with 3 Senators having voted in the negative, and 26 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:

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Ensure Benefits for State Retirees"
(EMERGENCY)

S.P. 573 L.D. 1496

In Senate, June 12, 2009, **PASSED TO BE ENGROSSED**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-581)**, in **NON-CONCURRENCE**.

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

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

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

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

June 12, 2009

ENACTORS

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

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

Act

Dear President Mitchell and Speaker Pingree:

An Act Concerning Technical Changes to the Tax Laws
H.P. 755 L.D. 1093
(C "A" H-476; S "A" S-315;
S "B" S-341)

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

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

Total Number of Bills and Papers		37
Unanimous Reports		34
Ought to Pass as Amended	3	
Ought Not to Pass	31	
Divided Reports		1
Carry Overs		2

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

Respectfully submitted,

ENACTORS

S/G. William Diamond
Senate Chair

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

Act

S/Emily Ann Cain
House Chair

An Act To Clarify the Application of the Public Works Minimum Wage Laws

H.P. 584 L.D. 849
(C "A" H-241)

READ and ORDERED PLACED ON FILE.

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

Senate at Ease.

Non-Concurrent Matter

Senate called to order by the President.

Bill "An Act To Establish Climate and Energy Planning in Maine"
H.P. 937 L.D. 1333
(H "B" H-574; S "A" S-348
to C "A" H-514)

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

In Senate, June 12, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY SENATE AMENDMENT "A" (S-348) AND HOUSE AMENDMENT "B" (H-574)** thereto, in **NON-CONCURRENCE**.

COMMUNICATIONS

The Following Communication: S.C. 428

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514) AS AMENDED BY SENATE AMENDMENT "A" (S-348)** thereto, in **NON-CONCURRENCE**.

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

Ordered sent forthwith to the Engrossing Division.

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

Non-Concurrent Matter

Emergency Measure

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)

In Senate, June 11, 2009, **PASSED TO BE ENACTED**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-539) AS AMENDED BY HOUSE AMENDMENT "D" (H-582)** thereto, in **NON-CONCURRENCE**.

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

Senator **DAMON:** Thank you, Madame President. You would expect me to offer a motion to Recede and Concur. It's with more regret and reluctance than I have ever managed in this Chamber to offer just such a motion and I wish to speak to my motion when it is appropriate.

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

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I understand there has been an amendment attached to the highway fund budget, L.D. 333. It comes as a little bit of a surprise because it was my understanding earlier in the week, maybe it was even today, that we were going to run the highway fund budget without appropriate funding levels for the job that was before us and then maybe turn our attention to what our responsibility really was and is. That appears not to be the case, and so the budget before us and the act that we are about to cast our vote on, I would like to tell you a little bit about it. First the good news. The good news is that it defers the issuance of pink slips to ten employees of the Bureau of Motor Vehicles. I understand from earlier discussions that those pink slips, those ten pink slips are not a big deal because after all there has been pink slips issued all over the state. It also defers the later issuance of pink slips to most of the members, or many of the members, many of the employees of the Department of Transportation. Again, no big deal because people have been receiving pink slips all over the state. So we will avert that reality, but here's the reality that we won't avert with our vote to accept this motion that I have proposed. We won't avert denying 12 pending maintenance surface treatment contracts that have been bid on, and that have been notified that their bids are accepted pending our ability to pay. They are the Lane Construction Company of Bangor, having a paving contract in Bangor in the amount of \$1,349,978.65. That will keep people working in addition to maintaining our roads. Another contract that we will likely not be able to award is to F.R. Carroll Company of Limerick for paving in the Bridgton area in the amount of \$1,005,490.05. An award that would keep people working in the State of Maine and maintain our road infrastructure. Another award to the Lane Construction Company of Bangor in the area of Danforth, in Washington County, in the amount of \$1,309,099. Jobs, again, in a county that is desperately in need of jobs. Another contract to the Lane Construction Company of Bangor in the Ellsworth area for \$1,776,898.50. More jobs, more paving, more need. I'll continue, the Lane Construction Company of Bangor in Houlton, in Aroostook County, in the amount of \$756,290.50. Pike Industries of Lewiston, in Jay, Maine, \$232,960. More jobs, more paving, more need. R.C. and Sons of Lewiston has been notified that they would receive a contract for paving in Kennebec County for \$42,503.40. Lane Construction Company of Bangor, in Knox County, for \$1,603,783.50. Lane Construction of Bangor in Lincoln County for \$1,409,916. To Lane Construction in Bangor, in Presque Isle, for \$323,446.50. More jobs, more paving, more need. Bruce A. Mansir, Inc. of Anson, Maine for paving in Strong for \$1,510,713.09. Finally, in the list that has already been notified that those contracts are let if we have money, F.R. Carroll of Limerick, in Waterboro for \$1,065,866.40. This budget that we are about to pass with this amendment is not simply about keeping government employees working. It's not simply about keeping the fat of government to continue to be employed, as some believe that to be the case. It's about jobs in the State of Maine. In every one of our districts. In every one of our counties. It's about jobs. It's about people. It's about employment, and it's about our infrastructure. We have come to a loggerhead because we can't agree. We can't agree. Last night, Madame President, ladies and gentlemen, I stood before you to say that I was adamantly opposed to taking money from a program that was designed to provide for capital construction, for long-term need. It was designed to put money away for that kind of work, and before

the first dollar went into it we were raiding it. We were cannibalizing it. I said I couldn't go along with it. In the course of the negotiations today I did something that I didn't know I could do. I went so far against my principle that I agreed to that demand, to that request, to take some of that money. I really expected that those whom I was negotiating with would also, recognizing that agreement and that compromise, would have agreed to at least come forth and say we have a need. We have a crisis. We have a need to keep people working and therefore we will talk to you about raising some more money. It didn't happen. It did not happen. Sanctimoniously, we don't have to because you need our vote. You're right. We need your vote. It's a two-thirds budget, but do you know who else needs us? It's the people of the State of Maine who need us. The people who we are putting to work and the people who are driving on those roads. They need us. Perhaps we've won. Perhaps we've lost. Time will tell, but I would hope that we would have some consideration for all of those people who drive on those roads, all of those roads that are deteriorating, and for any unfortunate mishap that might occur as a result of that transportation infrastructure and our neglect of it. I've offered the amendment Madame President. I'm ashamed that I have. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, having been a self-employed logger for 25 years one thing I have learned is that it's poor form to make promises that you can't keep. All of these people that have been listed as folks that have been promised, I don't think that was responsible to make those promises until the budget was passed. I don't think any of us would agree that we want these people to be out of work, but we all know how this system works. We ask our leadership to go out and participate in discussions and we have to honor those discussions, but it doesn't mean that the job is done. I believe in a few short months we will be looking at a supplemental budget and I believe we will be back here. We'll be having this discussion again. I don't think this is over with and I don't believe we will be that far into the budget cycle when we will have another shot at this. I don't think anybody here should be painted as somebody who doesn't care about the quality of our roads and about our people working because all of us do. I'm going to say to you that I don't like the system that goes out and makes promises based on a vote that I will be casting later on. I can't do that in my private business and I don't think the State of Maine should do it, because it does create a false promise for these folks and an expectation that we are going to deliver for them. We don't know how things are going to be. Our economy is a mess. Just this month we learned that we are \$21 million short for last month. We can't make a prediction. We have to be careful. Not just careful for the department, but careful for the people that we represent. I hope that the energy prices don't spike like they did not too long ago, because it creamed me in my business. I rely on fuel for my business. I have two skidders that use diesel fuel. I use gasoline in my business. It's not just the DOT that's hurting, it's everyone in Maine that's hurting. So we have to keep a balance, but please don't make it like this is the end of the road. I know it's the end of the session, we are all tired and stressed, but please just don't do that because the game is not done and we will be back soon and we'll have another shot at it. Thank you.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I have never used this line, but I did not plan on rising to speak on this issue, and I do only because I don't understand how we are here or why we are here with this problem at this time. It was all the talk of promises that left me confused, because as a member of the Transportation Committee I sat in the room three weeks ago. I called our Chairman every morning after he had negotiations, and a small working group of all of the interested parties involved, and every morning on my ride down he would give me an update on the progress. On the final day of this subcommittee work session I showed up in the Committee room and everyone present had an agreement, a promise. We had members step outside and phone up their leadership and come back in to deal. We had confirmation, let's go with it. We had people in the audience who had the parts they were looking for, we were going to settle it. We had promises all around the horseshoe. It was all worked out three weeks ago, so I guess that leaves me wondering why are we here tonight discussing this? We had a deal. I guess I'm not posing a question, but it is a question in my mind, why we are here right now with this problem? 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, I kind of heard some comments that I think deserve a little bit of a discussion. We heard a number of projects that aren't going to be done, and I guess I'm not completely sure how the Chairman of the Transportation Committee decides which projects are done and which projects aren't, but maybe he does have that much influence. Maybe we should spend the next hour reading all of the projects that we are going to do in this State. We just heard a discussion about how people were phoning their leadership and everybody was on the same page a month ago and I can assure you that the good Senator to my left, and I, we were not part of those discussions. I don't believe much of the leadership in the other side of the Body was part of a discussion of a massive gas tax increase. We saw proposals, we continually dismissed them. We continually tried to come up with other solutions than raising a tax on the people of Maine when they can least afford it in the worst economy in 30 years. We did have a little discussion this afternoon with the good Chair of the Transportation Committee. We had a discussion and we sat there and we listened. We listened to the ground rules. We listened to how we were not going to solve this problem with efficiencies, that the transportation budget must go through and it must be a separate bill. There was absolutely no way we were going to use any portion of the TransCap. We must have additional revenues. The good Representative from Madison said maybe we can keep talking. He said we need to continue to talk about this. The lines in the sand were repeated. So, I read the lines in the sand back to the good Chairman and it was said that if we had to have additional revenues in order to move forward then it was not going to get done. Madame President, this is the worst time to be raising taxes on the people in Maine. We know there is a problem and that's why we tried to come up with a solution. We tried to put forward a solution that

was fair, that was honest, that was straight forward, and we understood the consequences of the solution. We understand the consequences of not being able to take on a long-term debt when we just have to fix the roof for a couple of years while we try to get through this economic downturn. It's not taken lightly. I believe the TransCap is a good idea, even though there are certain deficiencies that are troubling to some of us. It's troubling that a majority can send out a bond, it can go up to 15 years, yet it only has to cover something that is good for ten. We've had to make some very difficult decisions this session and this is one of the toughest ones. We will continue to work. We will argue and fight, but we will continue to work together to solve these problems. I think this Legislature has proven that we come up with better solutions when we work together than either one of us thought we could come up with in the first place. Thank you, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, I walked out of caucus just a few minutes ago determined that, once again today, I would swallow my pride and I would vote to recede and concur. However, as I sat here, as I listened to my friend, my colleague, the Chair of Transportation, I could not do it. I will vote against receding and concurring. I must, and I will tell you why. I have sat here, in one chamber or the other, for 11 years. We have talked about our transportation system being the very heart of Maine. Our location in this nation, our lack of airlines, our lack of a rail that goes east, west, north, south, all of those things, and how we need jobs. I've listened to stimulus packages coming out of Washington. Jobs, jobs, we talk in BRED, Business Research and Economic Development, about jobs. High tech jobs, construction jobs, keep our young people here with jobs. Then I hear when people don't come to do business here because our income tax is too high. We took care of that. We brought that down. I can't please everybody, so as I sat here I realized that I had to please myself. I had to please the people who sent me here. They expect that when they pay taxes they are going to get good roads. They expect that when they pay taxes that they are going to get good police service and they are going to get certain services. Every single thing the rest of this nation is looking at is to try to get our workforce going, but not us. No sir, we won't raise a gas tax to keep the truckers running. We won't raise a gas tax so that all of those roads that our tourists, the number one economic engine driver, those tourists can come here. We won't raise our taxes, we are so fiscally responsible. I watched a man in caucus talk about going in after he said and gave his word on the Web for all to hear, that he would not go into the TransCap, and yet he did. Today I voted for a bill that both the majority and the minority reports had no conditions attached to it, but when the report came forward there were all kinds of poison pills. I swallowed my pride and I took it. I swallowed my pride, but I no longer have the pride when it comes to the failure for us to live up to our responsibilities. If you can't stand the heat get out of the kitchen. It's time we vote for our transportation system. It is what makes this system move. This entire state moves because of transportation and yes, the price of asphalt has gone up. It's petroleum based, and yes, our construction workers expect to be paid, and yes, workers have money that they put into the economy and it keeps your mom and pop store going. It keeps all of those chain stores, and chain

restaurants, you know the ones that are going to tell you how many calories you are eating, it keeps all of those going too. It keeps everything going, our road system, our airlines. So, Mr. Chairman, I am sorry, I cannot support a recede and concur motion and go home to the people and say I failed to raise a tax, therefore our roads and people who need business and people who need work will be put out. We will absolutely make situations worse for the sake of 2.5¢. I still have this amendment sitting here on my desk. Only 2.5¢. So I will vote, and I will vote in order to have cooler heads prevail and hopefully come really willing to speak to one another. If they don't, they don't. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, yesterday a man I respect greatly who chairs the Appropriations Committee asked me to support the highway budget, and I did that. We delivered, I believe, 28 votes to that highway budget. So I don't understand the outrage that I'm feeling from some of the speakers because I believe we will deliver the votes for the budget that's in front of us. There is no amendment in front of us to raise the gas tax. I believe I have done what has been asked of me in good faith and delivered what was asked of me. So again, I ask that we please calm down the rhetoric and let's move on to make progress on this issue. I believe we will have many more whacks at this, but let's not burn the bridges that we have built. Thank you.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, last evening this Chamber rejected a proposal that would have addressed the very contracts that the Senator from Hancock mentioned here tonight. After that, this Body embraced enactment of this very bill, the underlying bill that we are talking about here tonight. I stood here and said I could not vote for it, and I did not vote for it, because there was virtually no money for paving. Many members of this Chamber voted for it regardless. I was concerned about surface maintenance, that's why I offered the amendment last night that would have funded it. Words are interesting things. We heard here tonight, we have heard previously, that the discussion of postponing the diversion of gas tax, 7.5% of the gas tax into the TransCap is a raid. When we are talking about a government entity it's considered a raid. Some people may consider a gas tax a raid, a raid on the hardworking taxpayers who are struggling to get through these difficult economic times. Many of us have stood on the floor and in our Committees and have discussed how this is not the right time to burden them further with increased taxes. We have heard this both in this Chamber and the other Chamber and on the second floor. These hardworking taxpayers who are already struggling and who soon will have to pay taxes when they get their automobiles repaired, I'm struck by the anger that I hear in the voices here tonight. Like the Senator from Lincoln, I believe it would be unfortunate to close out this productive and constructive session of the Legislature on that note. I believe that the Transportation Committee can continue to work and can continue to explore ways to address the needs that we have, but there is a very strong sense among many of us that this simply is not the

right time to raise taxes further. I wonder Madame President, if I may, for the record, reference language in the House Amendment that has been attached and which we would approve with our recede and concur motion. Section X4, highway and bridge light capital funding contains language seeking to have the Joint Standing Committee on Transportation continue, during the interim, discussions to negotiate in good faith, and develop solutions to fund the highway and bridge light capital program so as to allow a maintenance paving rate at 600 miles per year. It also contains the following phrase which has concerned many of us, but I just want to clarify for the record, it says "without further impact to the TransCap trust fund." It is my understanding from discussions with the presiding officer and the majority leader that this is in no way intended to limit the options of the Committee in seeking agreement and developing solutions, that no option is off the table. I wonder, Madame President, if I may seek clarification of my understanding of that language. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I would like to answer that question but hope I may take a moment to get to that answer. Last night we stood here faced with a very difficult decision to make. We had a budget before us with woefully inadequate funding for the paving of our roads. We got there because we could not come to an agreement on a solution that would garner two-thirds support of this Body. We have folks who are supporting an increase in the gas tax to pay for more paving. We have others who advocated that we take all of the money from TransCap. In the end we couldn't reach that agreement and we came together, Republicans and Democrats, to support a budget that we could agree on. We did that because we were concerned that the Department of Transportation would have significant problems that would literally grind our highway system to a halt if we didn't take action and we didn't do it quickly. Today we have before us that same bill with an amendment, an amendment that provides for additional paving of our roads to help us get through this year and that does tap into that TransCap fund a little bit. That is painful for a lot of us in this Chamber. Last night we had a very excellent debate about that issue and some of us voiced our concerns with tapping into a capital reserve to cover such short-term expenditures. What I do think, though, is that this budget, with the modification, presents a first step and offers an olive branch to our friends across the aisle. So we couldn't come to an agreement of doing it all out of TransCap or doing it all out of some other funding mechanism, but we recognized that there is a need and we want to meet you half way. We will take some of the money out of TransCap now and in exchange, as part of this agreement, we ask that you come with us on the road through the Transportation Committee over the next several months and search for solutions. Certainly nothing is off the table. The Transportation Committee will have full reign to look at any funding mechanisms and report back whatever it sees fit as legislation. What I think this clause represents is for those of us who made such a sacrifice into tapping into that TransCap fund, something we didn't want to do, it expresses our hope that we can find alternative solutions. I think everybody, I think the Republicans and Democrats can agree that over the long-term going into a capital fund for short-term improvements is not the way to go. So the hope is that we can find better, longer term solutions. We've had some that have

been put on the table here. I suspect there are others and I will urge the members of the Transportation Committee, and urge members of this Body, to be creative and look for solutions. I understand that neither of us are going to get all of what we want. So, I will reiterate that every option will be on the table for the Transportation Committee, and while I think it is with some reluctance that members of this Body will be supporting this, because of the changes that have been made, at the end of the day I hope we can do what we did last night and come together in a bipartisan spirit and do what must be done to move this ball forward, knowing that we will come back and have another day to look at this issue and to get it right. Thank you, Madame President.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I would like an opportunity to respond to the minority leader's question with regard to Section X4 in the proposed amendment that he referred to. It is true that that language authorizes the Joint Standing Committee on Transportation to continue to meet and to try to negotiate in good faith and develop a solution to fund the highway and bridge light capital program. With regards to his comment that all issues will be on the table during those discussions, I hope that that is the case, although I further note that it says in this language that they will be included without further impact to the TransCap Trust Fund. Without further impact to the TransCap Trust Fund. Now, I've got to say as being involved in that Committee that that's certainly one thing that I will be looking at very closely, but everything else should be, and ought to be, on the table. Whether it happens to be additional revenues to the fuel tax, or whether it happens to be yard sales or bottle drives or anything else that we can think of that will provide some money into that fund, we ought to be able to talk about it. I guess the solace that I can take away from some of the frustration that you heard in my voice in my opening comments would be in that we would come together in an effort to truly find a bipartisan solution to this bipartisan problem. I'm also encouraged by my colleague, the Senator from Lincoln's comments that he believes that we will be back here in a couple of months. I really hope that's the case because if, in fact, we are left to our own political devices, that of convening the Joint Standing Committee on Transportation and negotiating some kind of a solution, and if what we do and what we are charged with is bringing it back to this Body as a whole, to this Legislature as a whole in January, that's a fool's errand because you all know, as I have come to understand, that the start of the next session of this Legislature, starting in January of 2010, is the start of a re-election year, or an election year. We are not going to get a significant influx of cash into this program to solve this problem if we wait until that time. So, I really hope that the Senator from Lincoln's prophecy comes true, that we convene this Committee and that we arrive at a bipartisan solution and that we are able to adopt that solution in a couple of months. Failing that, Madame President, the pessimist in me says we failed and we don't deserve to fail. Thank you.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **DAMON** of Hancock to **RECEDE** and **CONCUR**.

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

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Emergency Measure

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)

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

Pending - motion by Senator **DAMON** of Hancock to **RECEDE** and **CONCUR**

(In Senate, June 11, 2009, **PASSED TO BE ENACTED**, in **NON-CONCURRENCE**.)

(In House, June 12, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-539) AS AMENDED BY HOUSE AMENDMENT "D" (H-582)** thereto, in **NON-CONCURRENCE**.)

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

Senator **MARRACHÉ:** Thank you, Madame President. Men and women of the Senate, I was listening to both sides in the earlier part of this discussion on this bill and I realize we have a lot of people who have invested a lot of time and a lot of energy, and a lot of emotions have been tied to this bill. It's no different than the budget, you have a Committee that has worked long and hard, and I understand that we may be at a point where some people feel it's not where they wanted to be. I understand that. I think actually all of us understand that. Sometimes you have to, when you get to that boiling point, you have to expect that you only hope that it's only the expression that you are hearing and not the fact that most of us want to see something good come out of this in the end. The people put us here to do what's right, and passing a budget is what's most important. We have worked long and hard in a very bipartisan manner on the biennial budget. We are going to have bonds coming up soon. I'm hoping that we will also be there and I believe we have been. This budget is no different. We all need to work together and we need to put aside some of the angst that we have and do what is ultimately the right thing. We have to at least put out there, as a member of

leadership, we have to let everybody know that we have made a commitment to each other, that the Committee should go back and that everything, everything, is on the table. If you don't have anything down here the most important thing is your word. That's all you've got and I'm putting mine out there. It's integrity that's most important and we need to make sure that we uphold that. So, I'm saying that everything will be on the table, as a member of leadership. We've had a chance to decompress. We do that in crisis situations in healthcare and we've had to do it a little bit here. I'm hoping that we will all come together, be on the recede and concur side, and pass this budget for the good of the state, for the good of the people who depend on this, and for all of us to show good will. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, I think I have been here for the last day of the session, I think this is my fifteenth time, and some things just never change and some things do. One of the things that doesn't change is the last night of the session we tend to get a little rambunctious with each other, and that's kind of okay, as long as we remember that it's okay to do that. I want to congratulate, by the way, the people who have worked to bring this compromise together for the passing of this highway budget. I think it wasn't easy. It wasn't easy for the Committee. It wasn't easy for leadership in both parties in both ends of this building, and I really appreciate all of the work, because at some point in the last 24 hours things didn't look that good for the people who are depending on this budget to be passed. I think the Senator from Lincoln, Senator Trahan, maybe said it best when I saw his arms go up and he said we just need to calm down a bit, but he also talked about how we came together last night in a bipartisan effort. If we can remember that I think that will help us get through this next vote. Both sides have participated in this process and I think both sides need to be respected, and have been, but the bottom line, I think, for us tonight is getting this budget passed. There's a whole bunch of people down across the hill that are waiting for this budget to be passed, and there's a whole bunch of folks here in this Chamber, and in this building, who are waiting for things to happen two weeks from now, two months from now as the Committee goes to work. So, I would ask that we might again focus on the budget before us, remember what we have all done and all of those who have worked so hard to get us here and let us move forward as soon as possible and get the budget done and we can move on from there. 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 think this is also my fifteenth, and final, adjournment night. When I was 15 years old I remember getting my drivers' license two weeks after my 15th birthday with, I must say, very little preparation. At that time I think the gas tax was something like 8¢. Today it's 29% or 28.4% I think. In those days you could buy a gallon of gas for 21¢ or 22¢. So the component of the price of gas that was allocated to taxes was over one third. In those days, when my dad was in the legislature, they came down here because the highway department was the biggest department in state government. Human services was a smidgen

and education was something that you left to the locals. You came down here to build roads and highways and to accommodate this invention called the automobile. That's what we did for work all during the midpart of the 20th century and into the latter part of the 20th century. Today the gas tax is 10% or 12% maybe of the total price of gas. It hasn't kept up with inflation, so we are living, in the last 15 years that I have been here, we have been living under constant annual pressure to re-examine the sufficiency of the gas tax to support this enormous infrastructure that our parents and grandparents built for us and that we are unable to afford to maintain. So these pressures are not new, they are part of our inheritance. I think there is room, and I want to speak for at least several of us on this side of the aisle and say that when we talk about all things being on the table, I'm not averse to looking at a penny or two here or there to adjust the gas tax upward. I think possibly we could have come to that accommodation in the House and Senate if we had been left to our devices. That's not the case here. Bear in mind that we are arguing about the trade-off between tie rods on the one hand and the gas tax on the other hand. This is basically a business decision. The people of Maine, if they are upset with our decision here today, will be upset because of their car repair bills more than anything else. I don't think these are by and large safety issues, they are maintenance and adequacy issues. I think one of the problems with the gas tax and with the highway budget is that everybody comes down here pretending to understand it. In the last two weeks it has turned into a Committee of 186 members, all of whom know exactly what needs to be done and have a very firm opinion. I don't know, I hope we can get back here and get down to business and behave a little bit more like businessmen, which many of us are, the next time we address this issue. It is mostly a matter of money, although as the good Senator from Hancock points out, it is also about jobs in this economy. So, that's an important consideration and I just want to acknowledge that point is not lost on many of us in this chamber and it was a point well made. I will be voting to recede and concur. It's not quite the budget I would have preferred to have, but it will do and it will get us through to dawn. Thank you.

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

Senator **GOOLEY:** Thank you, Madame President. We have 186 members in the Legislature. 151 in the House and 35 in the Senate, so whatever the Transportation Committee, 13 members, whatever we did we have to satisfy the needs of the rest of the two bodies, and that really has fallen apart. So, all I'm really going to say is we really did lose an opportunity and what bothers me about what the Transportation Committee went through, from January to June, is the fact that whatever we said pertaining to the budget or the amendments that were presented were met with a stone wall. The disconnect was certainly there. The opportunity to put people to work doing the 600 miles of paving and other highway projects fell apart. Last night I thought we might have done some good, but it didn't happen. I see what we have arrived at as a giant disconnect, and it was all over a couple of pennies. So I kind of agree with the Senator on the other side of the aisle. I'm rather disgusted but I understand everyone's point of view. There's a point of view out there, the economy is in a shambles. We've talked about efficiencies in transportation, but we can talk about efficiencies in every department, or every business in Maine. Sure, maybe efficiencies are needed in

transportation, I would agree with that, but this is a never-ending discussion for everyone who runs a business. My last point is what is perfection? When do you say you've arrived? Thank you.

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** and **CONCURRED**.

Ordered sent forthwith to the Engrossing Division.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Joint Order

The Joint Select Committee on **MAINE'S ENERGY FUTURE** on Bill "An Act To Authorize a General Fund Bond Issue To Fund Energy Efficiency Investments for Maine's Future"
H.P. 1034 L.D. 1481

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

Comes from the House with Bill and accompanying papers **COMMITTED TO THE COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS**.

On motion by Senator **BARTLETT** of Cumberland, Bill and accompanying papers **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Implement the Recommendations of the Blue Ribbon Commission To Study Long-term Home-based and Community-based Care

S.P. 142 L.D. 400
(S "A" S-343 to C "A" S-57)

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:

Mandate

An Act To Allow Military Personnel Living in Maine To Benefit under the Maine Resident Homestead Property Tax Exemption
H.P. 44 L.D. 51
(C "A" H-6; S "A" S-342)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

ENACTORS

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

Acts

An Act To Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation
H.P. 545 L.D. 796
(S "A" S-344 to C "A" H-527)

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies
S.P. 491 L.D. 1356
(S "A" S-345 to C "A" S-301)

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

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

ENACTORS

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

Emergency Measure

An Act To Protect Benefits for State Retirees
S.P. 573 L.D. 1496
(H "A" H-581)

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 (#212)

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

NAYS: Senators: None

EXCUSED: Senator: SHERMAN

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

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

ENACTORS

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

Act

An Act To Ensure that Replacement Culverts Permit Fish Passage

H.P. 937 L.D. 1333
(S "A" S-348 to C "A" H-514)

On motion by Senator **DIAMOND** of Cumberland, 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 (#213)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFISKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, 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, 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.

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 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
(H "D" H-582 to C "A" H-539)

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

Senate at Ease.

Senate called to order by the President.

The following proceedings were conducted after 12:01a.m., Saturday, June 13, 2009.

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 **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June 2010 Elections"

H.P. 631 L.D. 913

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-583)**.

Signed:

Senators:
DIAMOND of Cumberland
CRAVEN of Androscoggin
ROSEN of Hancock

Representatives:

CAIN of Orono
 MARTIN of Eagle Lake
 ROTUNDO of Lewiston
 MILLER of Somerville
 FLOOD of Winthrop
 NUTTING of Oakland
 CONNOR of Kennebunk
 MILLETT of Waterford
 WEBSTER of Freeport

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

Signed:

Representative:

ROBINSON of Raymond

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-583)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-583) **READ** and **ADOPTED**, in concurrence.

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

Senator **MILLS** of Somerset moved the Senate **RECONSIDER** whereby it **ADOPTED** Committee Amendment "A" (H-583), in concurrence.

Same Senator moved to **TABLE** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Senate **ADOPTED** Committee Amendment "A" (H-583), in concurrence.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#214)

YEAS: Senators: ALFOND, BRYANT, DAMON, HASTINGS, HOBBS, JACKSON, MILLS, NUTTING, PERRY, RECTOR, ROSEN, SCHNEIDER, SULLIVAN, TRAHAN, WESTON

NAYS:

Senators: BARTLETT, BLISS, BOWMAN, BRANNIGAN, COURTNEY, CRAVEN, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, MARRACHE, MCCORMICK, PLOWMAN, RAYE, SIMPSON, THE PRESIDENT - ELIZABETH H. MITCHELL

ABSENT: Senators: NASS, SMITH

EXCUSED: Senator: SHERMAN

15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **MILLS** of Somerset to **TABLE** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Senate **ADOPTED** Committee Amendment "A" (H-583), in concurrence, **FAILED**.

PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Ordered sent forthwith to the Engrossing Division.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1053

ORDERED, the Senate concurring, that the following specified matters be held over to any special or regular session of the 124th Legislature.

Agriculture, Conservation and Forestry

H.P. 442, L.D. 628 - An Act To Allocate Prospective Federal Funding To Support Maine's Dairy Industry

S.P. 262, L.D. 687 - Resolve, To Authorize the Department of Conservation To Place Priority on Access to Certain Prominent Water Bodies under the Land for Maine's Future Fund

S.P. 430, L.D. 1182 - An Act To Prevent Price Gouging in the Sale of Milk

H.P. 857, L.D. 1238 - An Act Concerning the National Animal Identification System

H.P. 858, L.D. 1239 - An Act To Establish a Revenue Source for the Maine Pesticide Education Fund

Appropriations and Financial Affairs

H.P. 659, L.D. 957 - An Act To Establish a New Method of Determining the State Budget

S.P. 503, L.D. 1387 - An Act To Strengthen Maine's Financial Future in Perpetuity

H.P. 1034, L.D. 1481 - An Act To Authorize a General Fund Bond Issue To Fund Energy Efficiency Investments for Maine's Future

Business, Research and Economic Development

S.P. 10, L.D. 1 - An Act To Stimulate Capital Investment for Innovative Businesses in Maine

H.P. 75, L.D. 91 - An Act To Fund the Maine Downtown Center

H.P. 215, L.D. 272 - An Act To License Home Building and Improvement Contractors

S.P. 119, L.D. 355 - An Act To Protect Residential Consumers of Home Heating Fuel

H.P. 479, L.D. 696 - Resolve, To Reclaim Past Unredeemed Beverage Container Deposits

S.P. 478, L.D. 1320 - An Act To Ensure the Availability of Alcohol-free Motor Fuels

S.P. 505, L.D. 1389 - An Act To Create State and Regional Quality of Place Investment Strategies for High-value Jobs, Products and Services in Maine

H.P. 972, L.D. 1393 - An Act To Provide an Exception to the Pine Tree Development Zone Requirements for Seafood Processing Businesses

Criminal Justice and Public Safety

H.P. 406, L.D. 568 - An Act To Amend the Sex Offender Registration Laws

S.P. 305, L.D. 791 - An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs

H.P. 783, L.D. 1139 - An Act To Require Internet Service Providers To Retain Records

Education and Cultural Affairs

H.P. 139, L.D. 160 - An Act To Require the Department of Education To Provide an Accounting of School Subsidy Based on Individual Members in a Regional School Unit or Alternative Organizational Structure

S.P. 116, L.D. 352 - An Act To Encourage Veterinary Practice in Maine

S.P. 173, L.D. 470 - An Act To Sustain Nursing Education in Lincoln County

H.P. 389, L.D. 551 - An Act To Improve the Essential Programs and Services Funding Formula

H.P. 408, L.D. 570 - An Act To Improve the Laws Governing the Consolidation of School Administrative Units

Health and Human Services

H.P. 187, L.D. 233 - An Act To Include Independent Practice Dental Hygienists in MaineCare

H.P. 438, L.D. 624 - Resolve, To Implement Certain Recommendations of the Report of the Governor's Task Force on Expanding Access to Oral Health Care for Maine People

H.P. 451, L.D. 637 - An Act To Ensure Services for Adults with Developmental Disabilities

H.P. 484, L.D. 701 - An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan

H.P. 516, L.D. 757 - An Act To Improve the Transparency of Certain Hospitals

H.P. 557, L.D. 821 - An Act To Support Collection and Proper Disposal of Unwanted Drugs

H.P. 881, L.D. 1262 - An Act To Restrict Gifts to Health Care Practitioners from Pharmaceutical and Medical Device Manufacturers

S.P. 462, L.D. 1281 - An Act To Increase the Efficiency and Effectiveness of Licensing Behavioral Health Care Providers

H.P. 940, L.D. 1339 - An Act To Improve Oversight of Pharmaceutical Purchasing

S.P. 495, L.D. 1360 - An Act To Allow Law Enforcement and Family Members To Petition the District Court To Initiate Assisted Outpatient Treatment

H.P. 954, L.D. 1364 - An Act To Stimulate the Economy by Expanding Opportunities for Personal Assistance Workers

H.P. 984, L.D. 1408 - An Act To Establish the Universal Childhood Immunization Program

H.P. 1019, L.D. 1464 - An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities

Inland Fisheries and Wildlife

S.P. 315, L.D. 807 - An Act To Improve and Promote Maine's Landlocked Salmon Resources

Insurance and Financial Services

H.P. 15, L.D. 20 - An Act To Require Insurance Companies To Cover the Cost of Prosthetics

H.P. 203, L.D. 257 - An Act To Establish the Health Technology Clinical Committee

H.P. 313, L.D. 425 - An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities

S.P. 393, L.D. 1059 - Resolve, To Enhance Health Care for Direct Care Workers

S.P. 446, L.D. 1198 - An Act To Reform Insurance Coverage To Include Diagnosis for Autism Spectrum Disorders

H.P. 955, L.D. 1365 - An Act To Establish a Single-payer Health Care System

Judiciary

H.P. 333, L.D. 445 - An Act To Improve Tribal-State Relations

H.P. 374, L.D. 529 - An Act To Create a Traffic Court

H.P. 875, L.D. 1256 - An Act To Prohibit Predispute Mandatory Binding Arbitration Clauses in Consumer Contracts

H.P. 895, L.D. 1289 - An Act To Enact the Uniform Debt Management Services Act

H.P. 968, L.D. 1378 - An Act To Adopt Portions of the Uniform Mediation Act

Labor

H.P. 109, L.D. 125 - Resolve, To Establish the Blue Ribbon Commission To Study the Functions and Operations of the Maine Public Employees Retirement System

H.P. 157, L.D. 192 - An Act To Index the State Minimum Wage to Inflation

H.P. 299, L.D. 403 - An Act To Increase the Minimum Wage

S.P. 356, L.D. 934 - An Act To Clarify Public Sector Employee Fair Choice in Collective Bargaining

Legal and Veterans Affairs

H.P. 49, L.D. 56 - An Act To Join the Interstate Compact on the National Popular Vote

H.P. 569, L.D. 833 - An Act To Distribute Funds Received from the Racino in Bangor to the Department of Health and Human Services, Office of Substance Abuse

H.P. 934, L.D. 1330 - An Act Regarding Gaming by Charitable Organizations

H.P. 946, L.D. 1345 - RESOLUTION, Proposing an Amendment to the Constitution of Maine To Increase the Required Number of Signatures for a Direct Initiative or a People's Veto and To Limit a Direct Initiative to One Subject

H.P. 996, L.D. 1420 - An Act To Alter the Distribution of Maine Clean Election Act Funding to gubernatorial candidates

H.P. 997, L.D. 1421 - An Act To Ensure the Perpetual Care of Maine Veterans' Cemeteries

S.P. 521, L.D. 1437 - An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations

H.P. 107 - Joint Order, To Amend the Joint Rules To Require Agreement with the Legislative Code of Ethics

Marine Resources

S.P. 354, L.D. 932 - An Act To Establish Area Management of Maine's Scallop Fishery

H.P. 935, L.D. 1331 - An Act Regarding Saltwater Recreational Fishing

S.P. 516, L.D. 1432 - An Act To Create a Saltwater Recreational Fishing Registry

Natural Resources

S.P. 341, L.D. 891 - An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions

H.P. 658, L.D. 956 - RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide Constitutional Protection to the Funds Generated by the Regional Greenhouse Gas Initiative

H.P. 999, L.D. 1423 - An Act To Improve Toxics Use Reduction and Reduce Energy Costs by Maine Businesses

State and Local Government

S.P. 386, L.D. 1022 - An Act To Amend the Laws Governing the Legislative Youth Advisory Council

Taxation

H.P. 60, L.D. 71 - An Act To Raise the Property Tax Exemption for Veterans

H.P. 160, L.D. 195 - An Act To Base the Excise Tax on Vehicles on a Percentage of the Manufacturer's Suggested Retail Price

H.P. 426, L.D. 588 - An Act To Amend the Excise Tax on Motor Vehicles To Reflect Depreciation

H.P. 473, L.D. 659 - An Act To Remove the Sales Tax on Watercraft

H.P. 476, L.D. 662 - An Act To Phase Out the Distribution of the Disproportionate Tax Burden Fund under the State-municipal Revenue Sharing Program over a 5-year Period

H.P. 539, L.D. 788 - An Act To Aid Municipalities and the Unorganized Territory in the Reduction of Property Taxes

H.P. 575, L.D. 839 - An Act To Authorize an Alternative Calculation of the Property Growth Factor for Municipalities with Exempt Personal Property

S.P. 353, L.D. 931 - An Act To Expand the Economic Development Benefit of Tax Increment Financing in Counties That Include Unorganized Territories

Senate at Ease.

Senate called to order by the President.

S.P. 371, L.D. 993 - An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland Pertaining to Taxation

Off Record Remarks

H.P. 776, L.D. 1121 - An Act To Protect Elderly Residents from Losing Their Homes Due to Taxes or Foreclosure

H.P. 872, L.D. 1253 - An Act To Establish a Local Option Sales Tax

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

H.P. 892, L.D. 1273 - An Act To Simplify the Application for Benefits under the Circuitbreaker Program

ENACTORS

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

S.P. 460, L.D. 1279 - An Act To Reduce Income Tax to 4.5% and Remove Low-income Families from Taxation

Bond Issue

H.P. 899, L.D. 1296 - An Act To Strengthen the Job Creation Through Educational Opportunity Program

An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June and November 2010 Elections
 H.P. 631 L.D. 913
 (C "A" H-583)

S.P. 481, L.D. 1335 - An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities

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

H.P. 1005, L.D. 1449 - An Act To Expand Tax Incentives for Visual Media Productions

Utilities and Energy

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-583), in concurrence.

H.P. 388, L.D. 543 - An Act Concerning the Allocation of Power Generated by GNE, LLC

S.P. 455, L.D. 1222 - An Act To Promote Geothermal Energy in the State

On further motion by same Senator, Senate Amendment "A" (S-350) to Committee Amendment "A" (H-583) **READ**.

H.P. 951, L.D. 1350 - An Act To Establish the Maine Transmission Mitigation Trust Fund

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

S.P. 514, L.D. 1430 - An Act To Ensure Electric Capacity To Serve Maine Consumers

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, the amendment that lies before you would shift \$4.5 million from the port component of the bond package to make it clear that it would go for dredging in the Searsport channel, as opposed to being allocated perhaps to Eastport. The reasons for this amendment are several. One is that I think the presentation to spend the money in Searsport was the presentation that was made by the Department of Transportation to the Appropriations Committee and it was indeed the proposal that has had a public hearing. I don't, in any way, take away from the needs of Eastport. I believe sincerely that they have substantial capital needs, but there is provided in this bond something like \$1.5 million to supply some of the needs in Eastport. The reason for allocating \$4.5 million of state money to Searsport, and the dredging project specifically, is that the Army Corp of Engineers is prepared to budget \$12 million in matching funds so that they can complete what is basically a \$16.5 million composite project for the dredging of Searsport channel. It will enable this very busy port that is managed by Sprague Industries to service vessels that draw up to 40 feet at low tide, as opposed

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

READ and **PASSED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

At this point a message was received from the House of Representatives, borne by Representative PIOTTI of Unity informing the Senate that the House had transacted all business before it and was ready to Adjourn Without Day.

to 35 feet. So it enhances, really, the market capacity of the port. This is a port that the State has invested in years past a great deal of money to improve it and, indeed, that State effort has been matched by substantial investments from Sprague, Irving and the people who manage the rail going into Searsport. The improvements there will change the question, this amendment changes the question that will appear on the ballot by striking out the amount of \$148 million in matching funds and substituting \$160.5 million. It seems to me that the enhanced match opportunity is not only good business for the State of Maine, it also enhances the appeal of the question and the likelihood that this transportation bond will pass in November. It is for all those reasons that I move the adoption of this. I want to end by saying I am taking nothing away from the needs of Eastport in my own presentation to you. I fully understand those needs and wish we had a larger component to offer for the port portion of the transportation bond, but if we have to choose between the two ports, it seems to me that allocating \$4.5 million to Searsport and \$1.25 million to Eastport is the appropriate allocation under these circumstances. It would put more people to work and we'll get better use of our dollars. That's my reason for presenting the motion. Thank you for entertaining my argument at 2:00 in the morning.

Senator **RAYE** of Washington moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-350) to Committee Amendment "A" (H-583).

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

Senator **RAYE:** Thank you, Madame President. This amendment would, as the Senator from Somerset indicated, remove the funding that currently, in this posture, would be going to the Department for the Department and the Administration to determine the split between the port of Eastport and the port of Searsport. Many of you know that my county of Washington has for years experienced the highest levels of poverty and unemployment and the lowest per capita incomes in the state. Recently it has been exacerbated with the uncertainty surrounding the Domtar Mill. We are overjoyed at the moment that the Domtar Mill is coming back online. We don't know how long that will last. We hope that it will be a permanent re-opening but we certainly don't know that. The unemployment rate in our county, before the closure of the Domtar Mill, was 13.5%. Over the years that Maine has had a three port strategy there has been significant State investment in our ports. The last port bond that went out to the voters had funds for the ports of Portland and Searsport, but nothing for the port of Eastport. In discussions with the Governor during these past weeks and months, he indicated very strongly his support for modifying his proposal for the port of Eastport that was made prior to the Domtar closure. It would enable the port to diversify. For a number of years the port has been able to serve, almost exclusively, the Domtar Mill. So when the Domtar Mill goes down the port goes down. The port is one of our only other significant employers in the entire county. So if the paper mill goes down again the port goes down again. In fact, the workers at the port had already received their notices of termination before the Domtar announcement came a few days ago. It's difficult to overstate how important this facility is to the downeast region of Maine, where there are very few, very few,

economic bright spots. One of the reasons that the port has not been able to attract other customers is the lack of capacity for bulk cargo handling. The proposal that the Governor has embraced, and that we hope to have funded by the Administration through this project, would establish a conveyor system that would allow the port, for the first time in its 25 years of history, to handle bulk cargo. It's currently lost to the port of St. John because we don't have the facilities to compete with them. It would be nothing short of devastating if we were to change the package that has been agreed to by the Appropriations Committee and ensure that the Department doesn't have the ability to determine what they determine to be the priority, but rather try to substitute our own judgment. I hope that you will join with me in supporting the motion to indefinitely postpone this amendment so that we can move forward and the Administration and the Department will have the capacity to determine how to spend these bond funds and that we can honor the process and the package that the Committee has produced. Thank you.

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

Senator **ROSEN:** Thank you, Madame President. Men and women of the Senate, just a couple of brief comments on the discussion and the motion that is before you. The Committee process has delivered a proposal here that lists the dollar amount for ports, and in that line refers to the two communities without specific dollar specificity. That is the form of the product that the Committee has brought for you and because of that I will be supporting the indefinite postponement motion. I don't want that support to be misunderstood in terms of the details of the discussion between the viability of the projects of the two ports. The presentation that came before our Committee from the Administration clearly identified a project in Searsport that has a match ready to go from the Army Corp of Engineers and is a project that is well-developed and poised for action. The proposal for Eastport is an expansion of the original, which although less well-developed is responding to current needs in Washington County. So the posture that the Committee presents to you and to the voters is an identification of the two communities without a specific dollar amount. So we will be remaining in that position. Thank you.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, I would also ask that you support the motion to indefinitely postpone. The Committee has reviewed this and we feel confident in the wording that we have and would ask for your support. Thank you.

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

Senator **SULLIVAN:** Thank you, Madame President. May I pose a question?

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN**: Thank you, Madame President. I'm not sure if it's because of my age, because of the nap, or because of the earliness of the hour, but I believe I heard earlier a comment that the Army Corp of Engineers had some money available for a project. Could that be repeated again, please, by whomever? Thank you.

THE PRESIDENT: The Senator from York, Senator Sullivan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN**: Thank you, Madame President. I am happy to respond to the question. The proposal that we are currently referring to in the Governor's original package, and I'm searching for the specifics so I can give you some accurate information, is one at Mack Point. It's the Searsport channel dredging project. There is currently shipping underway. Mack Point is an active, operating cargo port for bulk cargo and these funds will provide the State share to dredge 35 feet to 40 feet at low water. The matching money is provided by the Army Corp of Engineers. ACoE is co-sponsor of the project and will fund the federal share of the estimated \$16.5 million investment. The original proposal is \$4.5 million from the State and \$16.5 million total, with the federal match. Thank you.

The Chair ordered a Division. 18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **RAYE** of Washington to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-350) to Committee Amendment "A" (H-583), **PREVAILED**.

Committee Amendment "A" (H-583) **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-583), in concurrence.

This being a Bond Authorization Act, in accordance with the provisions of Section 14 of Article IX of the Constitution, having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the Members present and voting, 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:

ORDERS

On motion by Senator **MARRACHÉ** of Kennebec, the following Senate Order:

S.O. 15

Ordered, that a message be sent to the House of Representatives informing that Body that the Senate is ready to Adjourn Without Day.

READ and PASSED.

The Chair appointed the Senator from Kennebec, Senator **MARRACHÉ** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, the Senator from Kennebec, Senator **MARRACHÉ** reported that she had delivered the message with which she was charged.

Off Record Remarks

On motion by Senator **BARTLETT** of Cumberland, the following Senate Order:

S.O. 14

Ordered, that a message be sent to Governor John E. Baldacci informing him that the Senate is ready to Adjourn Without Day, and invite him to attend and make such communications as pleases him.

READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator **BARTLETT** to deliver the message to the House of Representatives. The Sergeant-At-Arms escorted the Senator to the Governor's Office.

Subsequently, the Senator from Cumberland, Senator **BARTLETT** reported that he had delivered the message with which he was charged.

The Honorable John E. Baldacci, Governor of the State of Maine, entered and addressed the Senate.

GOVERNOR BALDACCI: Thank you very much. I will be very brief, but I have some words that need to be given. Madame President, Leader Bartlett, Leader Raye, Assistant Leader Marraché, Assistant Leader Courtney, men and women of the Maine Senate, the time has come to close the First Regular Session of the 124th Legislature. Ladies and gentlemen, thank you. The work you have accomplished on behalf of the people of Maine is truly impressive. When this session began you faced a daunting list of challenges, but at each turn members of the 124th Legislature rose to the occasion and answered the challenge. This Legislature put partisanship and ideology aside to tackle the worst economic recession in more than 70 years. We passed a budget that reduced State spending while protecting the core values of our state and our people. We passed significant energy legislation that will set Maine on the path to greater energy independence and security. We affirmed the protections guaranteed in our Constitution that everyone in our state, regardless of sexual orientation, be treated equally under the law. We worked cooperatively to quickly implement the American Recovery and Reinvestment Act, which is already putting people

to work in Maine. We expanded training for workers and for the unemployed. The Legislature has dealt with tough issues and almost all of the time did it with a spirit of good humor, compassion, and patience. We lowered the income tax and transformed our tax code for the 21st Century, making it more stable and more progressive. We improved the quality and access and affordability of healthcare. We made important investments in our people and in our economy and at times we continued our work even though we couldn't reach bipartisan accord. Even then, when differences surfaced, this session has been marked by goodwill and openness. The people of Maine don't expect us always to agree, but they do expect us to work together and get things done, and you have done that. As this session ends patience may be frayed and fatigue has taken its toll, but in the days and weeks to come you will look back at the last six months with a sense of pride and accomplishment because you made the State of Maine stronger. On behalf of the people of this great state, thank you for your dedication and your service. Congratulations. Be safe. Be well. Have a great summer. Thank you very much.

The Governor withdrew from the Senate Chamber. (Amid applause, the Members rising.)

On motion by Senator **BRANNIGAN** of Cumberland, the Honorable **ELIZABETH H. MITCHELL**, President of the Senate, declared the First Regular Session of the 124th Legislature, **ADJOURNED SINE DIE** at 2:16 in the morning.