

MAINE STATE LEGISLATURE

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

In Senate Chamber
Tuesday
March 9, 2010

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

Prayer by Reverend Dr. Jodi Hayashida, First Universalist Church
of Auburn.

REVEREND HAYASHIDA: Please join me in prayer. Holy One, You who are within us and among us, You who are called by many names and yet are ultimately un-nameable, help us to be open to Your presence now. We begin this day in gratitude for the many blessings that are ours; for the rising of the sun, for a roof over our heads to keep us warm and safe from the elements. We are grateful that we have enough food to nourish our bodies. We offer thanks for work that is meaningful and powerful. We offer thanks for the warming air and the signs of new life that are sprouting all around us. They remind us on this day of the promise of hope and new life that rests always with this Body in the form of work that can be literally lifesaving; work that has the potential to transform our state into a place of ever deeper love, ever deeper care, ever greater justice. We ask on this day that these Senators do their work from a place of holy love for every person that they serve. We're not asking for miracles this morning. We're not asking that they like every person that they serve or even that they like every person in this room, but we ask that they do this work from a place of love; a recognition that every person in this state is a sacred being, that we are all leading our lives as best as we are able in this, our shared home. Love is a powerful and transformative thing. Help them to acknowledge it, find it within their own hearts. Help them to honor the inherent work of every person that they meet, every person that they serve. Help them to accord every individual equal dignity; regardless of the house that they live in, it's size or state or their lack of a home; regardless of the color of their skin or the person that they love or the way that they look; regardless of the name by which they call God or their decision not to worship God at all. Help these Senators to move through their day, move through the work that is before them, from that place of holy love that opens them to the oneness of our being. This is hard work that is done in this space, hard discussions that are had, and hard decisions that are made. Equally hard is the necessary openness to the movement of the spirit and understanding of our shared sacredness. Help these Senators to put aside the rumblings of their own egos, the cries of their own fears, and move into a deep powerful holy place as they move through the day ahead. Finally, it is a certainty that, like Moses leading his people through the wilderness, these, our state's leaders, often hear our anger and dissatisfaction when things don't go the way we want or hope. Help them on this morning to know and feel our deep gratitude as well for the work at hand, for the sacrifices that they make to serve us. May they prove themselves worthy of that gratitude. Amen. Blessed be.

Pledge of Allegiance led by Senator Debra D. Plowman of
Penobscot County.

Reading of the Journal of Thursday, March 4, 2010.

Doctor of the day, Dr. Daniel Hammond, DO of Belgrade.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 720

**STATE OF MAINE
124TH MAINE LEGISLATURE**

March 3, 2010

Sen. Elizabeth M. Schneider
Senate Chair, Joint Standing Committee on Business, Research
and Economic Development
Rep. Nancy E. Smith
House Chair, Joint Standing Committee on Business, Research
and Economic Development
124th Legislature
Augusta, ME 04333

Dear Senator Schneider and Representative Smith:

Please be advised that Governor John E. Baldacci has nominated the following to the Finance Authority of Maine:

Michael Mahoney of Cape Elizabeth, reappointment
Glenn Lamarr of Fort Kent, reappointment
Shepard Lee of Cape Elizabeth, appointment
Evelyn Silver of Bangor, appointment
John Sevigny of Portland, appointment
Rosaire Pelletier of Madawaska, appointment
Reis Hagerman of Scarborough, appointment

Pursuant to Title 10 M.R.S.A. §972, these nominations will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

Sent down for concurrence.

The Following Communication: S.P. 721

**STATE OF MAINE
124TH MAINE LEGISLATURE**

March 3, 2010

Sen. Bruce S. Bryant
Senate Chair, Joint Standing Committee on Inland Fisheries and Wildlife
Rep. Herbert E. Clark
House Chair, Joint Standing Committee on Inland Fisheries and Wildlife
124th Legislature
Augusta, ME 04333

Dear Senator Bryant and Representative Clark:

Please be advised that Governor John E. Baldacci has nominated the following to the Inland Fisheries & Wildlife Advisory Council:

Michael Witte of New Harbor, reappointment
Alan Greenleaf of Old Town, appointment
Wade Kelly of Allagash, appointment

Pursuant to Title 12 M.R.S.A. §10151 (1), these nominations will require review by the Joint Standing Committee on Inland Fisheries and Wildlife and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **INLAND FISHERIES AND WILDLIFE**.

Sent down for concurrence.

The Following Communication: S.P. 722

**STATE OF MAINE
124TH MAINE LEGISLATURE**

March 3, 2010

Sen. Lawrence Bliss
Senate Chair, Joint Standing Committee on Judiciary
Rep. Charles R. Priest
House Chair, Joint Standing Committee on Judiciary
124th Legislature
Augusta, ME 04333

Dear Senator Bliss and Representative Priest:

Please be advised that Governor John E. Baldacci has nominated Peter Darvin of Portland and Ethna Mary Kelly of Falmouth for appointment as a Maine District Court Judge.

Pursuant to Title 4 MRSA §157-1, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **JUDICIARY**.

Sent down for concurrence.

The Following Communication: S.P. 723

**STATE OF MAINE
124TH MAINE LEGISLATURE**

March 5, 2010

Sen. Seth A. Goodall
Senate Chair, Joint Standing Committee on Natural Resources
Rep. Robert S. Duchesne
House Chair, Joint Standing Committee on Natural Resources
124th Legislature
Augusta, ME 04333

Dear Senator Goodall and Representative Duchesne:

Please be advised that Governor John E. Baldacci due to a clerical error has withdrawn his nomination of Edith Cronk for reappointment to the Maine Outdoor Heritage Fund Board pursuant to Title 3 MRSA §154. This nomination is currently pending before the Joint Standing Committee on Agriculture, Conservation and Forestry.

To correct this clerical error he has re-nominated Edith Cronk for reappointment to the Maine Outdoor Heritage Fund Board, pursuant to Title 12 M.R.S.A. § 10308, this nomination will require review by the Joint Standing Committee on Natural Resources and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell
President of the Senate

S/Hannah M. Pingree
Speaker of the House

READ and REFERRED to the Committee on **NATURAL RESOURCES**.

Sent down for concurrence.

Off Record Remarks

SENATE PAPERS

Bill "An Act To Authorize a Bond Issue for Ratification by the Voters for the June 2010 Election To Create Jobs in the State"
S.P. 724 L.D. 1816

Presented by President MITCHELL of Kennebec.
Cosponsored by Speaker PINGREE of North Haven and
Senators: CRAVEN of Androscoggin, JACKSON of Aroostook,
Representatives: CAIN of Orono, CONNOR of Kennebunk,
MARTIN of Eagle Lake, MILLER of Somerville, ROTUNDO of
Lewiston, WEBSTER of Freeport.
Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

On motion by Senator **DIAMOND** of Cumberland, **REFERRED** to
the Committee on **APPROPRIATIONS AND FINANCIAL
AFFAIRS** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

American Legion Post No. 164, of Falmouth, for its outstanding
efforts in supporting those serving in the Armed Forces of the
United States through the American Legion Blue Star program.
The Blue Star Service Banner displayed in the window of a home
lets others know that someone in that home is serving in the
United States Armed Forces. The banners were widely used
during World War I and World War II. The American Legion has
rekindled the program as a reminder that war touches every
neighborhood in our Nation. We extend our appreciation to
American Legion Post No. 164 for its commitment to all of our

military personnel, including active duty, reserve and National
Guard, and their families;

SLS 361

Sponsored by Senator DAVIS of Cumberland.
Cosponsored by Representatives: COHEN of Portland, NELSON
of Falmouth.

READ.

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

Senator **DAVIS:** Thank you, Madame President. Men and
women of the Senate, American Legion Post No. 164 is very, very
unique. Most of the members of that, or a majority of the
members, are World War II veterans. They are in their 80s.
Some of them in their mid-80s. They march in the Memorial Day
parade year in and year out. They are an unusual group of men.
Arthur Frederickson, who's been Commander many many, times
in the 164, was in the cavalry when World War II broke out. He
actually rode around with horses. They transferred him to the
tanks and sent him to the Pacific. They all have a story. As a
history teacher, though I'm not a veteran, was very interesting to
know these men. I've gotten to know them over the years. One
gentleman was actually in the Band of Brothers. You saw that
movie or read the book. He's just passed away but he was a
member of that group of paratroopers that was so famous in
Europe. They have done a great deal in the community. They
donated a Little League field in Falmouth which literally thousands
of kids have played on, including my three children. They are
also very active in the library. They have done a lot of things and
recently have recruited some younger members so the legion
post will go on. I can't say enough good things about the
American Legion Post No. 164. Thank you.

PASSED.

Sent down for concurrence.

The City of Bath, on the occasion of having Front Street named
one of ten great streets in America by the American Planning
Association. Front Street is one of Maine's architectural
treasures and was described as "the center of commerce,
government and fellowship in Bath for 200 years." The maritime
history of Bath is evident throughout Front Street with its scenic
views of the Kennebec River and the giant red-and-white Bath
Iron Works crane. We congratulate the good citizens of the City
of Bath on Front Street being honored with this prestigious
designation;

SLS 362

Sponsored by Senator GOODALL of Sagadahoc.
Cosponsored by Representatives: KENT of Woolwich, WATSON
of Bath.

READ.

Senator **GOODALL**: Thank you, Madame President. Men and women of the Senate, it's a great honor to have many folks, young and older, from the City of Bath here today. City Counselors, folks from the Main Street Bath Program, as well as a pair or two that have been advocates for the Main Street Program all across the state of Maine and they reside in Bath. Bath is a wonderful place and one of the strengths of the city is its Front Street. Many people might think it's their Main Street but we like to call it Front Street. It truly has been a collaborative effort to help revitalize the downtown, both in regards to community development as well as economic revitalization. Many years ago they made some very challenging decisions to resist urban renewal and I am sure many people are very thankful for that today. Especially in our economy in this state, so many businesses are small businesses. They are Main Street based businesses. Not only has Bath have a major employer in BIW but there is also a lot of economic vitality with jobs on that Front Street. Today I just rise to congratulate the City of Bath for their honor as being named as having one of the greatest streets in the country and join other large cities such as Ann Arbor, Michigan and places as historic as Williamsburg, Virginia. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Carolyn Lockwood, the Bath Community Development Coordinator; Jim Upham, Bath City Planner; Jennifer Geiger, Director of Main Street Bath; Bernie Wyman, City Council Chair; Mari Eosco, City Councilor; Ruthe Pagurko, City Councilor; Sean Paulus, City Councilor; and Martha Mayo, wife of former Senator Art May. Would they please step forward and accept the gratitude of the Maine Senate. The Chair has just been informed that I left out an important City Councilor, Wayne Cochran. Would you also please stand and accept the congratulations of the Maine Senate.

House

Ought to Pass Pursuant to Statute

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Review of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act"

H.P. 1293 L.D. 1806

Reported that the same **Ought to Pass**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-686)**.

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

READ ONCE.

House Amendment "A" (H-686) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)
H.P. 1243 L.D. 1749

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

Signed:

Senators:

- BRANNIGAN of Cumberland
- MARRACHÉ of Kennebec
- MILLS of Somerset

Representatives:

- PERRY of Calais
- JONES of Mount Vernon
- SANBORN of Gorham
- JOY of Crystal
- CAMPBELL of Newfield
- LEWIN of Eliot
- STRANG BURGESS of Cumberland
- STUCKEY of Portland
- EVES of North Berwick

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

Signed:

Representative:

- PETERSON of Rumford

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass** Report.)

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.

Reports **READ**.

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Ought to Pass

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Child Abuse or Neglect Substantiation Process"

S.P. 609 L.D. 1602

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

Senator SCHNEIDER for the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Create Jobs and Stimulate Economic Development by Making Captive Insurers Eligible for Pine Tree Development Zone Benefits for 10 Years" (EMERGENCY)

S.P. 651 L.D. 1679

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-400)**.

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

READ ONCE.

Committee Amendment "A" (S-400) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Establish Emergency Zones on Public Ways To Minimize Accidents"

S.P. 581 L.D. 1503

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-398)**.

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

READ ONCE.

Committee Amendment "A" (S-398) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Regulate the Use of Traffic Surveillance Cameras" S.P. 598 L.D. 1561

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-401)**.

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

MAZUREK of Rockland
HOGAN of Old Orchard Beach
PEOPLES of Westbrook
THERIAULT of Madawaska
HARLOW of Portland
CAREY of Lewiston
BROWNE of Vassalboro
CEBRA of Naples
ROSEN of Bucksport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Representative:

THOMAS of Ripley

Reports **READ**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

SECOND READERS

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

House

Bill "An Act To Promote Opportunity for Workers in the Maine Woods"

H.P. 1092 L.D. 1550

Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Expenditure Programs
H.P. 1195 L.D. 1694

READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Resolve, To Ensure Consistency in the Scheduled Expiration of Terms of the Board Members of the Finance Authority of Maine (EMERGENCY)

H.P. 1054 L.D. 1505
(C "A" H-657)

Resolve, Regarding Legislative Review of Section 16, Activities in Coastal Sand Dunes, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

H.P. 1068 L.D. 1518
(C "A" H-651)

Bill "An Act To Amend the Statute of Limitations under the Maine Human Rights Act"

H.P. 1081 L.D. 1537
(C "A" H-662)

Bill "An Act To Close Loopholes in Environmental Laws"

H.P. 1082 L.D. 1538
(C "A" H-665)

Bill "An Act To Amend the Definition of 'Farmers' Market'"

H.P. 1124 L.D. 1586
(C "A" H-666)

Bill "An Act To Regulate the Transportation of Firewood" (EMERGENCY)

H.P. 1135 L.D. 1607
(C "A" H-667)

Bill "An Act To Establish an Office of Administrative Law Judges for Licensing Boards"

H.P. 1136 L.D. 1608
(C "A" H-658)

Bill "An Act Enabling Expedited Partner Therapy"

H.P. 1145 L.D. 1617
(C "A" H-653)

Bill "An Act To Reduce Road Noise within Posted Areas"

H.P. 1170 L.D. 1642
(C "A" H-672)

Bill "An Act To Enhance Maine's Clean Energy Opportunities" (EMERGENCY)

H.P. 1175 L.D. 1647
(C "A" H-675)

Bill "An Act To Allow Minor Capital School Improvement Projects To Be Permitted Costs under Essential Programs and Services" (EMERGENCY)

H.P. 1187 L.D. 1686
(C "A" H-660)

Bill "An Act To Protect the Environment and Natural Resources of the State by Regulating the Discharge of Certain Substances into the Environment" (EMERGENCY)

H.P. 1194 L.D. 1693
(C "A" H-652)

Bill "An Act To Update and Modernize Maine's Floodplain Mapping"

H.P. 1200 L.D. 1699
(C "A" H-655)

Bill "An Act To Clarify the Status of Prisoners"

H.P. 1212 L.D. 1711
(C "A" H-676)

Resolve, Regarding Legislative Review of Chapter 9: Rule Requiring Best Management Practices for Growing Crops To Minimize Cross Contamination, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY)

H.P. 1241 L.D. 1744
(C "A" H-668)

Bill "An Act To Amend the Charter of the Gardiner Water District"

H.P. 1250 L.D. 1756
(C "A" H-661)

Bill "An Act To Extend the Temporary Reduction in High-stakes Beano License Fees" (EMERGENCY)

H.P. 1260 L.D. 1770
(C "A" H-671)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Senate As Amended

Bill "An Act To Improve Disclosure of Campaign Finance Information and the Operation of the Maine Clean Election Act"

S.P. 592 L.D. 1546
(C "A" S-395)

Bill "An Act Regarding the Law Governing Recreational Vehicle Manufacturers, Distributors and Dealers"

S.P. 655 L.D. 1683
(C "A" S-396)

Bill "An Act To Create a Commercial Pelagic and Anadromous Fishing License and Establish the Pelagic and Anadromous Fisheries Fund"

S.P. 657 L.D. 1724
(C "A" S-393)

Bill "An Act To Amend Mercury Stack Testing Requirements for Certain Air Emission Sources"

S.P. 681 L.D. 1775
(C "A" S-394)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Amend the Laws Governing the Taste Testing of Alcoholic Beverages

H.P. 1156 L.D. 1628
(C "A" H-645)

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.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 232: Well Drillers and Pump Installers Rules, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1239 L.D. 1742

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

Acts

An Act To Maintain Compliance of Maine's Insurance Laws with National Standards

H.P. 1059 L.D. 1510
(S "A" S-382 to C "A" H-628)

An Act To Align Education Laws with Certain Federal Laws
S.P. 588 L.D. 1532
(C "A" S-373)

An Act To Enhance Newborn Blood Spot Screening To Conform to Federal Newborn Screening Standards

H.P. 1144 L.D. 1616

An Act To Amend the Laws Governing Advanced Practice Registered Nurses

H.P. 1203 L.D. 1702

An Act To Amend the Laws Relating to Government Records

H.P. 1219 L.D. 1718
(C "A" H-638)

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

An Act Concerning the National Animal Identification System

H.P. 857 L.D. 1238
(C "A" H-641)

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

An Act To Establish a Residential Wood Stove Replacement Fund

H.P. 1113 L.D. 1575
(C "A" H-642)

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

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Agriculture, Food and Rural Resources**

The **Department of Agriculture, Food and Rural Resources**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 37: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY)
H.P. 1296 L.D. 1812

Be **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **TAXATION** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**, in **NON-CONCURRENCE**.

Sent down for concurrence.

**Pursuant to Statute
Government Oversight Committee**

The **Government Oversight Committee**, pursuant to the Maine Revised Statutes, Title 3, section 997, subsection 2 asked leave to report that the accompanying Bill "An Act To Implement the Recommendations of the Office of Program Evaluation and Government Accountability Regarding Emergency Communications Services"
H.P. 1297 L.D. 1813

Be **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **BOWMAN** of York, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed pursuant to Joint Rule 218, in concurrence.

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

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (2/23/10) Assigned matter:

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Resolve, Directing the Department of Inland Fisheries and Wildlife To Adopt Rules Clarifying Fish Stocking Decisions
H.P. 1057 L.D. 1508

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

Tabled - February 23, 2010, by Senator **BRYANT** of Oxford

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 18, 2010, Reports **READ**. Resolve and accompanying papers **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.)

(In Senate, February 23, 2010, Reports **READ**.)

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/25/10) Assigned matter:

HOUSE REPORT - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Joint Order, "To Amend the Joint Rules To Require Agreement with the Legislative Code of Ethics"
H.P. 107

Report - **Pass as Amended by Committee Amendment "A" (H-591)**

Tabled - February 25, 2010, by Senator **BARTLETT** of Cumberland

Pending - **ACCEPTANCE OF REPORT, in NON-CONCURRENCE**

(In House, February 23, 2010, Report **READ**. Joint Order and accompanying papers **COMMITTED** to the Joint Select Committee on **JOINT RULES**.)

(In Senate, February 25, 2010, Report **READ**.)

On motion by Senator **SULLIVAN** of York, **COMMITTED** to the Joint Select Committee on **JOINT RULES**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (2/25/10) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "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. 569 L.D. 833

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-612)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-613)** (3 members)

Tabled - February 25, 2010, by Senator **SULLIVAN** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 23, 2010, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-613)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-613) AS AMENDED BY HOUSE AMENDMENT "A" (H-635)** thereto.)

(In Senate, February 25, 2010, Reports **READ**.)

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)** Report, in **NON-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 PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. I apologize for waiting until the last minute. I'm not sure what has been said but I would like to go on the record as opposing the Majority Ought to Pass Report and urge people to reject this. Madame President, if it would be in order, I would move that we Recede and Concur.

THE PRESIDENT: It is not in order. It is pending a roll call to accept the Majority Ought to Pass Report. The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you, Madame President. Men and women of the chamber, I would just like to make a comment or two. I hope I can prevail on the membership to vote in opposition to the pending motion and take a closer look at this proposal. Those of us on the Appropriations Committee had an opportunity to examine the history involved with the funding and then ability to provide programming for gambling addiction services. Just a very quick recap. You will recall when the citizen initiative passed that authorized the creation of the Bangor racino, the gambling racino, there was a component of funding that was provided, rightfully so, to be applied for gambling addiction services. Estimates were made because there really was no track record and a particular line was funded and launched. As we discovered, there was essentially no utilization of those funds or that program. Now there is some disagreement as the policy committees have looked at that in terms of whether it's implementation was effective enough or not. Some of us feel that it was. With others I think there is a sense that it could have been delivered in a different way. Setting that aside, the bottom line is there are resources that weren't utilized. They were set aside for a good purpose. We saw an opportunity to generate some savings and pull it back. This proposal reverses that effort and, in fact, provides an opportunity and a plan to, again, ramp up the available funds that will be provided to utilize gambling addiction services. In the environment that we are in and the recession that we are facing and the short-falls that we're dealing with down in 228, here we have a program that had good intentions, I think well delivered in terms of its management, but no one is using. I think there is a real opportunity to be able to take savings from that, leave an amount that stays within that fund, and reject this proposal which is designed to ramp up funding and to increase outreach. We have other priorities that we really need to address and I don't think we need to be ramping up a program that hasn't been utilized. Thank you, Madame President.

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

Senator **PLOWMAN:** Thank you, Madame President. I've got a little more together and would like to continue on concerning a few of the comments that were made by the Senator from Hancock, Senator Rosen. This is probably the one item that you can bring up and drive me from the room because if for every single time we bring up this \$50,000 you took \$100 out of it and put it in a jar to be spent you'd have a lot of money. We have debated it for hours in my committee and more hours in the Appropriations Committee. It's \$50,000 that has never been used. It has never been used. Not one person has come forward

despite the posters, the 211 outreach program, or the mandatory information provided when you opt out or make sure that you can't gamble at the facility. Year after year we turn this \$50,000 back to the General Fund. We're growing a fund from \$50,000 to \$225,000 and the fund has never been used. When you go and look at the other report you will see that it grows it to a \$75,000 figure and takes the money out of Public Safety and moves it to the Department of Human Services where it can be accessed. For a program of \$50,000 that has never been used to grow to the amount of \$225,000 so that it can never be used is not the message that we want to be sending to the public in a year where we are decreasing what we pay to nursing homes, to home care aides, to our schools, for our mentally ill, and for our physically disabled. I can't even imagine that this is a message that you want to be sending to your constituents, that you are actually growing a program when all other programs are being cut and it's a program that hasn't been used. I will tell you that I was on the Majority Ought to Pass Report because I have negotiated this figure of \$225,000 down from a figure of \$600,000. I thought that was a long way to come. When I saw that we could bring this back down to \$75,000 and then take a look at it and have time to go forward it seemed a much more reasonable approach. I would urge you to take the reasonable approach here. Thank you, Madame President.

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

Senator **BARTLETT:** Thank you, Madame President. Just to briefly respond to some of the arguments that I've heard. The issue about the money not being used, we understand in this state there are issues around alcohol abuse and gambling addiction abuse. The fact that this money has not been used is very suggestive of the fact that it's not in the proper place, that there isn't the proper outreach to facilitate its use. What this bill is trying to do is simply put it into a place where it can be more readily accessible and make sure it is doing what it was intended to do. That is the purpose of the bill and I think that fact that it hasn't been used is a testament to the need for taking a new approach to this. Thank you.

At the request of Senator **SULLIVAN** of York, Reports **READ**.

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

Senator **PLOWMAN:** Thank you, Madame President. In response to the comments from the Senator from Cumberland, Senator Bartlett, both reports move this into the Department of Human Services. One creates a program with a \$75,000 budget and one creates a program of \$225,000. Those are the only differences. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Senator **SULLIVAN** of York to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-612) Report, in non-concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#299)

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

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

ABSENT: Senator: GOOLEY

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-612) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (2/25/10) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Laws Governing the Somerset County Budget Procedure" (EMERGENCY)

H.P. 1061 L.D. 1512

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-639)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-640)** (2 members)

Tabled - February 25, 2010, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 23, 2010, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-639)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-639)**.)

(In Senate, February 25, 2010, Reports **READ**.)

On motion by Senator **SIMPSON** of Androscoggin, the Minority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-640)** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "B" (H-640) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (3/2/10) Assigned matter:

JOINT ORDER - Directing the Joint Standing Committee on Legal and Veterans Affairs To Report Out a Bill regarding Direct Initiative Process

H.P. 1289

Tabled - March 2, 2010, by Senator **BARTLETT** of Cumberland

Pending - **PASSAGE**, in concurrence

(In House, February 25, 2010, **READ** and **PASSED**.)

(In Senate, March 2, 2010, **READ**.)

Senator **BARTLETT** of Cumberland moved to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE**.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I did not anticipate this motion. I do think, for me, without going into detail, that this was an important piece to getting a bill before this Body that we could all listen to with an open mind.

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

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

Senator **SULLIVAN:** Thank you, Madame President. On speaking with different people it was determined that even though we had two bills, we've done away with one, that we would still have to do a public hearing. Given the time in this session and all we feel that to do a public hearing and all would not be fair. We do have a vehicle to put forth, so we are asking that this be Indefinitely Postponed.

Senator **PLOWMAN** of Penobscot moved the Joint Order be **TABLED** 1 Legislative Day, pending the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE**.

At the request of Senator **BARTLETT** of Cumberland a Division was had. 13 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **PLOWMAN** of Penobscot to **TABLE** 1 Legislative Day, pending the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE, FAILED**.

Senator **PLOWMAN** of Penobscot moved the Joint Order be **TABLED** until Later in Today's Session, pending the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE**.

Senator **BARTLETT** of Cumberland requested a Division.

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.

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

Senate at Ease.

Senate called to order by the President.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#300)

YEAS: Senators: COURTNEY, DAVIS, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SMITH

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

ABSENT: Senator: GOOLEY

11 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PLOWMAN** of Penobscot to **TABLE** until Later in Today's Session, pending the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE, FAILED**.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bartlett to Indefinitely Postpone the Joint Order, in non-concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#301)

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

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

ABSENT: Senator: GOOLEY

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BARTLETT** of Cumberland to **INDEFINITELY POSTPONE** the Joint Order, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/4/10) Assigned matter:

HOUSE REPORT - from the Committee on **LABOR** on Bill "An Act Relating to the Membership of the Workers' Compensation Board"

H.P. 1103 L.D. 1566

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-659)**

Tabled - March 4, 2010, by Senator **JACKSON** of Aroostook

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

(In House, March 2, 2010, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659)**.)

(In Senate, March 4, 2010, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-659) **READ**.

On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-399) to Committee Amendment "A" (H-659) **READ**.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, what this amendment does is removes the term limits for the Commissioners on the Workers' Comp Board. It's been mentioned a number of times that the Workers' Comp Board an enormous amount of time and energy to get up to speed. What this amendment would allow us to do is keep some on to bring the level up for the new members. I'd urge you to vote for the pending motion.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, to my knowledge this issue has not been addressed in the Labor Committee. I don't know that we've heard from the Workers' Compensation Board itself as to whether they have a position one way or the other on whether their members should be exempt from a statute that has been in place since 1992 that limits their terms to 8 years. It seems to me this is a fairly modest policy shift in terms of management of the board and that it ought not to be appended to this bill without getting input both from the board itself and from the Labor Committee who, by my knowledge at least, has not heard this issue. For that reason I would oppose the pending motion.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **BRYANT** of Oxford to **ADOPT** Senate Amendment "A" (S-399) to Committee Amendment "A" (H-659).

The Chair laid before the Senate the following Tabled and Later (3/4/10) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An Act To Amend the Unemployment Compensation Laws Regarding Vacation Pay" (EMERGENCY)

H.P. 1154 L.D. 1626

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-648)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - March 4, 2010, by Senator **RAYE** of Washington

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

(In House, March 2, 2010, 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-648).**)

(In Senate, March 4, 2010, Reports **READ**.)

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

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I rise in opposition to the pending motion for several good reasons. People from organized labor, and they were primarily from organized labor, who came down as proponents of this bill argued to us almost as if they were negotiating a labor contract in front of the Labor Committee by saying, 'Is it fair that when one of our members is laid off and they collect their accumulated vacation pay, two weeks or ten weeks or what have you, that they have to exhaust the use of that back pay before they can begin to collect the first week of unemployment compensation benefits?' To make the best use, it seems to me, of the Unemployment Compensation Trust Fund I think you would agree that the most protection that this fund could afford the worker would be to say, 'Look, exhaust your vacation pay as it has accumulated and then add on your unemployment benefits to the end of that period so that you have the longest duration of protection under the Unemployment Compensation law.' This can be achieved if you say, as a policy matter and a legal matter, that you have to exhaust your accumulated vacation pay before your first dollar of unemployment benefits starts. If we pass this law and say that you can receive a check for several thousands of dollars, perhaps, at the very beginning of your period of unemployment and you can still get unemployment on the second week of your lay-off it means that your unemployment will run out sooner, it means that you will have a larger check at the beginning of that period that may lull you into thinking that life is still good even though you are not working, and it doesn't serve the underlying purpose of the Unemployment Compensation law which is to put bread and milk on the table.

It's not an issue of contract bargaining or what might be fair or unfair in a given situation. It has to do with raw societal protection. It's insurance. It's to keep people alive. It does that, frankly, with very meager resources. The top rate in this state is something like \$350 a week. If you have a child in your family you get \$10 a week. We've had that rate for 20 or 30 years I think. If you are inclined, frankly, to raise taxes on employers in order to fund a new benefit for working people, my lord, there are all kinds of places you would go looking for that outside from trying to address this issue about vacation pay, which is a benefit that accrues largely through higher paid workers. If you were going to spend a couple of million dollars I'd recommend that you maybe put \$2 on that child benefit, for example, if you wanted to put bread and milk on the table of families. In the middle of this recession, where we have just raised taxes on Maine employers as of January 1st by \$58 million in order to replenish our Unemployment Compensation Trust Fund, to say we're going to add a couple million dollars to that on an annualized basis in the middle of the worst recession since 1935 and we're going to give

a benefit for this purpose of all purposes when there are so many other benefits under the Unemployment Compensation system that, frankly, are underfunded.

This system, as it existed back in 1998 and 1999, had been so chipped away that before we made the reforms in 2000 and overhauled the system we had a system that could only be described as corrupt. Corrupt not in the criminal sense but in the software sense. Our Unemployment Compensation software system, if you want to call it that, throughout the 1980's and 1990's was notoriously corrupt in the sense that the tax was allocated to all the wrong employers. The benefits that were payable were out of line with the needs of the families who were covered. Some people got extraordinary benefits. Others did not get enough. The Trust Fund was down around \$80 million, which was not nearly enough to carry through even a modest recession. The system had been patch worked to death and eroded over time by one legislature after another that thought, as this bill does, what's the harm in passing one more benefit that some special group is come in and asked for. What's a couple of million bucks here, a couple million there? That's what happened over the first 80 years of this statute and it fell into a status of complete disarray. Thanks to the King administration, some people in the Department of Labor, and a Labor Committee that I served one that took a great and personal interest in this system, we did not want to see happen what had happened with Workers' Compensation. We wanted to overhaul this system by agreement, by consensus, by negotiation and we spent two years doing it. Labor made major concessions in 1999 and 2000. The Chamber of Commerce made major concessions. Taxes were temporarily raised. The Trust Fund was rebuilt from \$80 million to \$460 million. We still, in the middle of this recession that we are in, have \$360 million on deposit in the Trust Fund. We have the number one system in the United States of America right now thanks to the overhaul that was done back in 1999 and 2000. If we continue to erode this thing, as we have already done by giving benefits to Social Security recipients a few years ago, by saying that it's okay for part-time workers to be participants in this system, we even slacked off on some of the tax requirements for employers, and begun that insidious cancerous process of eroding this system that we repaired 12 years ago. This is one more step on that pathway and it's the wrong step. It's the wrong direction. It isn't going to benefit people who truly need these benefits. Therefore I urge you to vote against the bill and the pending motion. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I tell you it's really really hard to get up and speak after the Senator from Somerset, Senator Mills, because he certainly has the history. I have to give him all the credit in the world for him and everyone else that worked on the unemployment issue back years ago. They did do a great job. They have made it one of the best systems in the country. Because of that we are in a lot better shape than most states. We are actually in quite good shape. Like I said, he has experience with that that I just can't really even touch, but what I do have is experience using unemployment. I don't know if that makes me a slacker or a bad guy or anything like that, but I do work in an industry that sees a fair bit of unemployment at times during the year. I've only had the pleasure of ever having

vacation pay twice in my life. Two years I worked for a company on the Golden Road that I was paid vacation pay. I appreciated it very much, but one of the drawbacks of that was that I was told that I could use it whenever we were unemployed in the Spring. It was a benefit, yes, but it probably wasn't as good a benefit as I'd like to have seen it. That is what I see happening very often. You do get vacation pay but most times it's not for your regular amount that you would receive if you worked your normal week. It's for 40 hours. Many times you are told when you can actually take it. Because of that a lot of times people end up stacking weeks of vacation year to year because they don't want to take it during those periods that they are allowed to. In some cases people just would rather work than take the vacation pay. It ends up accumulating over time. What you have happening is people that work at the same business that have taken their vacation pay and people that haven't taken their vacation pay. Unfortunately if they get unemployed one person is allowed to take unemployment while the other one isn't until those weeks are used up. It's a matter of fairness for that employee. I don't see it as really corroding the system or anything like that. I think in times like this we see that with this problem that we have some problems or some issue of fairness in the system that we probably don't see in the better times. I supported allowing people that are employed to receive their unemployment immediately upon being unemployed after the mandatory one week waiting period. These are earnings that were accumulating in years gone by and shouldn't effect their current benefit year but do. We are one of the few states that do this like this. It's a small percentage of cost. There is a cost to the Unemployment Trust Fund and I understand that, but we actually could have cases where if someone has six or seven weeks of vacation pay and they happen to find a job in that time then the person that laid them off is never charged as having an employee that was laid off. I would think that most businesses wouldn't use that this way. I believe most businesses wouldn't, but you could actually have a case where businesses would look down through their employees and find the ones who have vacation pay and lay them off because they wouldn't be charged for unemployment. I don't think that's what vacation pay is supposed to be about. You are supposed to be able to have that vacation pay to take time off and if you don't take the time off then it is there for future days. If you get unemployed during that time I think you should get unemployment just like the person that is standing right along beside you that used their vacation pay three or four years ago. I supported the bill. I know it's fair. It's a small cost. Like I said, it is a cost but it's .25 of 1% of the Unemployment Trust Fund. I just see it as a fairness thing for employees that are doing the same job. One probably used his vacation all along through time and the other one, for whatever reason, didn't. I'd ask you to support the Majority Ought to Pass Report.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Jackson to Accept the Majority Ought to Pass as Amended Report, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#302)

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

NAYS: Senators: COURTNEY, DAVIS, HASTINGS, MILLS, NASS, PLOWMAN, RAYE, RECTOR, SHERMAN, SMITH, TRAHAN, WESTON

ABSENT: Senator: GOOLEY

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **JACKSON** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-648) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Off Record Remarks

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

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

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED** to Thursday, March 11, 2010, at 10:00 in the morning.