

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fourth Legislature

State of Maine

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

In Senate Chamber
Wednesday
March 31, 2010

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

Prayer by Pastor Mark Wilson, Phippsburg Congregational
Church, UCC.

PASTOR WILSON: Good morning, folks. I drove an hour up here this morning first of all to say thank you. We all are in positions, I think, where we hear a lot of bad news, so I just want to say thank you for all the work that you do. Thank you very much. Let us pray together please.

God of all nations and all peoples, You have said to us how good and pleasant it is when we dwell in unity and You have said to us, 'Blessed are the peacemakers, for they shall be called your children.' When we give credence to voices that would rile us in anger and divisiveness we do nothing but feed our great adversary. We thank You, God of peace, that this week our leaders have chosen a path of listening to each other and have shared in the peace that a sense of common purpose brings. Let us learn from these moments and move faithfully together into the future that You have prepared for us all. Amen.

Reading of the Journal of Tuesday, March 30, 2010.

Doctor of the day, Dr. Heather Sharkey, DO of Freeport.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions"
S.P. 341 L.D. 891
(S "C" S-489 to C "A" S-386)

In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY SENATE AMENDMENT "C" (S-489)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY HOUSE AMENDMENT "A" (H-801)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **FURTHER CONSIDERATION**.

Non-Concurrent Matter

Bill "An Act To Promote the Establishment of Innovative Schools" (EMERGENCY)

S.P. 706 L.D. 1801
(C "A" S-455)

In Senate, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455) AS AMENDED BY HOUSE AMENDMENT "A" (H-800)** thereto, in **NON-CONCURRENCE**.

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

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **ALFOND** of Cumberland to **RECEDE** and **CONCUR**.

ORDERS

Joint Order

Expressions of Legislative Sentiment recognizing:

The 95th Anniversary of the Armenian Genocide. On April 24, 1915, a campaign was launched by the Turkish regime of the Ottoman Empire against the Armenian people, resulting in the death of more than 1.5 million Armenians. Some of the survivors settled in the State of Maine, and their heirs have made significant contributions to the State. We join our citizens of Armenian heritage on April 24th in remembering this event, and we express our deepest sympathy for the families of those who perished;

SLS 434

Sponsored by Senator **BRANNIGAN** of Cumberland.
Cosponsored by Senator: President **MITCHELL** of Kennebec,
Representative: Speaker **PINGREE** of North Haven.

READ.

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

Senator **BRANNIGAN**: Thank you, Madame President. Men and women of the Senate, we are reminded today of man's inhumanity to man. The Armenian Genocide is also known as the Armenian Holocaust, the Armenian Massacre, and as the Great Calamity of the Armenians. I'm also reading a book by someone who went through this terrible ordeal and survived, Armenian Golgotha. The Armenian Genocide was a massacre of over a million Armenians by the Ottoman Empire during and just after World War I. It is just one of the examples of a modern genocide. In the paper last September there was a headline Armenia and Turkey Will Start Talks To Establish Diplomatic Relations. The reason they don't have diplomatic relations is that Turkey believes it never happened. There wasn't a genocide. It was much less than that. They used tactics such as mass burning, poisoning, drowning, deportation, extermination camps, and death marches to destroy the Armenian population. Villagers were gathered and burned together. Women and children were loaded on a boat which subsequently capsized and they were drowned. They were exposed to toxic gas and poison, often in deadly quantities. Many were deported and their land and possessions stolen. Experts also believe that 25 extermination camps existed. People lived in them a very short time. Finally innocent women, men, and children were marched out of their towns and into the desert with no facilities or food, with no water, just to be left there to die. In August 1915 a New York Times, our own newspaper in New York, printed a report stating the roads in Euphrates were strewn with corpses of exiles and those who survived were doomed to certain death. It's gruesome. We have to feel sympathy for even the people who were so lucky to have been able to survive. Their relatives were able to survive. A great deal of culture was lost in the genocide. People have recovered with the help and recognition of other nations. Now there are over 135 memorials in 25 countries that commemorate this genocide. We do it every year. I'm pleased to do it, as was Senator Brennan before me, because of these folks who live in our area. I urge you, as much as you might not want to do this, next year when you are reading in the newspaper or listening, note the genocides that are going on right now. Just take a count. Some of us, when we get back here next year, will talk about it again. Thank you very much.

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

Senator **DAVIS**: Thank you, Madame President. Men and women of the Senate, as a teacher at Portland High School and a coach I had several Armenians in class. Some of the finest people I've ever had the pleasure to know. I had Bob Laconian on my football team. He was in the United States Marines. He still lives in Portland. I had his sister in class. They are very fine people. Also had shish kebab. They are very fine people and I'm very proud to have known them and been associated with them. Thank you, Madame President.

PASSED.

Ordered sent down forthwith for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **UTILITIES AND ENERGY** on Bill "An Act Concerning the Allocation of Power Generated by GNE, LLC" H.P. 388 L.D. 543

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-803)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-803)**.

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

READ ONCE.

Committee Amendment "A" (H-803) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Protect Maine Workers"

S.P. 593 L.D. 1545

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-495)**.

Signed:

Senators:

JACKSON of Aroostook
GERZOFKY of Cumberland

Representatives:

CLARK of Millinocket
BLODGETT of Augusta
TUTTLE of Sanford
BUTTERFIELD of Bangor
GILBERT of Jay
DRISCOLL of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-496)**.

Signed:

Senator:

MILLS of Somerset

Representatives:
THIBODEAU of Winterport
HAMPER of Oxford
CUSHING of Hampden
BICKFORD of Auburn

Reports **READ**.

Senator **JACKSON** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-495)** 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 BY COMMITTEE AMENDMENT "A" (S-495)** Report.

ENACTORS

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

Emergency Measure

An Act To Ensure Fairness in Penalties for Administrative Errors in the Long-term Care Assessment Process
H.P. 1056 L.D. 1507
(C "A" H-782)

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

Acts

An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act
H.P. 1086 L.D. 1542
(C "A" H-776)

An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization
H.P. 1088 L.D. 1544
(C "A" H-787)

(See action later today.)

An Act To Clarify Safety Requirements in Acadia National Park
S.P. 666 L.D. 1737
(S "A" S-459 to C "A" S-424)

An Act To Allow Electronic Filing of Vital Records and Closing of Records To Guard against Fraud and Make Other Changes to the Vital Records Laws
H.P. 1271 L.D. 1781
(C "A" H-783)

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

An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs
H.P. 1205 L.D. 1704
(H "A" H-781 to C "A" H-736)

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

An Act To Strengthen the Ballot Initiative Process
S.P. 662 L.D. 1730
(S "B" S-481; S "C" S-487
to C "A" S-443)

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

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

Senate at Ease.

Senate called to order by the President.

On motion by Senator **MARRACHÉ** of Kennebec, the Senate **RECONSIDERED** whereby it **ENACTED** the following:

An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization
H.P. 1088 L.D. 1544
(C "A" H-787)

(In House, March 30, 2010, **PASSED TO BE ENACTED**.)

(In Senate, March 31, 2010, **PASSED TO BE ENACTED**, in concurrence.)

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in 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.

Off Record Remarks

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

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

Bill "An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions"
S.P. 341 L.D. 891
(S "C" S-489 to C "A" S-386)

Tabled - March 31, 2010, by Senator **GOODALL** of Sagadahoc

Pending - **FURTHER CONSIDERATION**

(In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY SENATE AMENDMENT "C" (S-489)** thereto.)

(In House, March 30, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY HOUSE AMENDMENT "A" (H-801)** thereto, in **NON-CONCURRENCE.**)

Senator **GOODALL** of Sagadahoc moved the Senate **RECEDE** and **CONCUR**.

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 (#386)

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **RECEDE** and **CONCUR**, **FAILED**.

Senator **RAYE** of Washington moved the Senate **ADHERE**.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **RAYE** of Washington to **ADHERE**.

Senator **DIAMOND** 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 on the Record.

Senator **RAYE**: Thank you, Madame President. I wanted to take a moment just to recognize a very distinguished person who hails from my district and also from the district of the Senator from Somerset, Senator Mills. That is Michael Cote, who has been named by Maine Biz magazine as the 2010 Small Business Leader of the Year for the state of Maine. Michael Cote purchased the A.M. Look Canning Company in Whiting. It was a long established but very troubled canning operation that basically was to the point of being defunct. He came in early in this decade and he purchased this little cannery and he has transformed it into one of the fastest growing small business food producing companies in the country. We are extraordinarily proud of Mike and all that he has accomplished and the jobs and economic development that his tenacity and his vision and his leadership has brought to a county that sorely needs all of those things. It is with great pleasure that I rise to acknowledge him. We will be passing in this chamber later today a sentiment acknowledging him and honoring him for his many accomplishments. I am delighted to call him a friend. As someone who is in the food production business myself, I can tell you that he has been an enormous help to my wife and I as we learned the ropes of a new enterprise for us and he is a credit to the state of Maine. My friend, Mike Cote.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Mike Cote, accompanied by Cynthia Fisher. They are the guests today of the Senator from Washington, Senator Raye and the Senator from Somerset, Senator Mills. Would they please rise and accept the greetings of the Maine Senate.

Off Record Remarks

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

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

Joint Resolution

The following Joint Resolution:

H.P. 1317

**JOINT RESOLUTION IN HONOR OF THE MAINE FARMER
AND MAINE AGRICULTURE**

WHEREAS, recent statistics show that Maine has about 8,000 farms, the bulk of which are small, family-owned operations, that provide full-time and part-time employment to more than 90,000 workers, approximately 13 percent of the State's workforce; and

WHEREAS, Maine's agricultural enterprises provide more than \$684 million through the sale of farm products and contribute more than \$2 billion annually to the State's economy, and an overwhelming majority of Maine people believe that buying local Maine agricultural products helps the State; and

WHEREAS, Maine farmers are the stewards of 1.36 million acres of land, a vital resource in maintaining the food security of Maine people; and

WHEREAS, Maine is first in New England in the production of food, first in New England in the value of aquaculture sales, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, third in the Nation in the production of maple syrup, eighth in the Nation in the production of fall potatoes, second in New England in milk and livestock production and the only state anywhere involved in the commercial production of fiddleheads; and

WHEREAS, agriculture shaped Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State, to pledge our support and encouragement and to urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agriculture industry; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources as a token of the esteem in which those in this vital field are held.

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

READ and **ADOPTED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **UTILITIES AND ENERGY** on 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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-806)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-806)**.

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

READ ONCE.

Committee Amendment "A" (H-806) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **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 Resolution

The following Joint Resolution:

H.P. 1318

**JOINT RESOLUTION MEMORIALIZING THE UNITED STATES
NAVY TO NAME A NEW BATH IRON WORKS ARLEIGH
BURKE DESTROYER THE USS BELKNAP**

WE, your Memorialists, the Members of the 124th Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Secretary of the United States Navy, as follows:

WHEREAS, there have been 2 United States Navy vessels over the years named the USS Belknap after 2 admirals of the United States Navy, Rear Admiral George Eugene Belknap, 1832-1903, and his son, Rear Admiral Reginald Rowan Belknap, 1871-1959; and

WHEREAS, the first USS Belknap (DD-251) was a destroyer launched in 1919 and decommissioned in 1945 after a career of valiant service; and

WHEREAS, the second USS Belknap (DLG/CG-26), the lead ship of her class, was a guided missile cruiser in service from 1964 to 1995 and was built at Bath Iron Works in Bath, Maine, a prominent and historic shipyard; and

WHEREAS, the second USS Belknap was severely damaged in a collision with the USS John F. Kennedy on November 22, 1975, resulting in the loss of 8 lives; and

WHEREAS, the USS Belknap was reconstructed by the Philadelphia Navy Yard, this time with her superstructure made of steel, which because of the accident became the standard for all ships in classes of surface combatants; and

WHEREAS, the USS Belknap returned to sea in 1980 and served with distinction over the years as a flagship and played an important role in the 1989 Malta Summit meeting of President George H. W. Bush and Soviet leader Mikhail Gorbachev, when the President had his sleeping quarters on the ship; and

WHEREAS, the second USS Belknap was decommissioned and stricken from the Naval Vessel Register in 1995 and sunk as a target at sea in 1998; and

WHEREAS, in Bath, Maine, the site of the construction of the second USS Belknap, Bath Iron Works is building 5 new Arleigh Burke destroyers, and this would be a perfect opportunity to resurrect the distinguished name of the USS Belknap, named after 2 notable and patriotic Navy officers; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Navy name one of these fine new ships, built with quality and pride in the State of Maine, the USS Belknap, after the 2 Rear Admirals of the United States Navy and the 2 noble ships that sailed the seas for their Nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Raymond E. Mabus, Secretary of the United States Navy, and to each Member of the Maine Congressional Delegation.

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

READ and **ADOPTED**, in concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment

H.P. 1089 L.D. 1547

(S "A" S-492 to C "A" H-725)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no 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.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, a Major Substantive Rule of the Department of Environmental Protection

H.P. 1224 L.D. 1725

(S "A" S-493 to C "B" H-678)

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education

H.P. 1238 L.D. 1741

(C "A" H-795)

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.

Senate at Ease.

Senate called to order by the President.

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

ENACTORS

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

Acts

An Act Relating to the Membership of the Workers' Compensation Board

H.P. 1103 L.D. 1566
(S "A" S-399 to C "A" H-659)

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 **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Ordered)

An Act To Prohibit Surcharges on the Use of Debit Cards
H.P. 1266 L.D. 1779

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

Off Record Remarks

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:

PAPERS FROM THE HOUSE

Non-Concurrent 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
(C "A" H-612)

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)

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, March 11, 2010, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)**, in **NON-CONCURRENCE**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-785) AS AMENDED BY HOUSE AMENDMENT "A" (H-791)** thereto, in **NON-CONCURRENCE**.

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

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 **UTILITIES AND ENERGY** on Bill "An Act To Enable the Installation of Broadband Infrastructure" (EMERGENCY)

H.P. 1265 L.D. 1778

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-784)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-784) AS AMENDED BY HOUSE AMENDMENT "B" (H-807)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-784) **READ**.

House Amendment "B" (H-807) to Committee Amendment "A" (H-784) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-784) as Amended by House Amendment "B" (H-807) thereto, **ADOPTED**, in concurrence.

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

Non-Concurrent Matter

Bill "An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties"

H.P. 1206 L.D. 1705
(C "A" H-769)

In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in **NON-CONCURRENCE**.

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

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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Commissioner of Education's Rule-making Authority"

H.P. 1272 L.D. 1784

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

Signed:

Senators:

ALFOND of Cumberland
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
CASAVANT of Biddeford

WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
JOHNSON of Greenville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-777)**.

Signed:

Senator:

SCHNEIDER of Penobscot

Representative:

McFADDEN of Dennysville

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-777) AS AMENDED BY HOUSE AMENDMENT "A" (H-808)** thereto.

Reports **READ**.

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today 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
(C "A" H-612)

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 - March 31, 2010, by Senator **BARTLETT** of Cumberland

Pending - **FURTHER CONSIDERATION**

(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, March 11, 2010, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612)**, in **NON-CONCURRENCE**.)

(In House, March 31, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-785) AS AMENDED BY HOUSE AMENDMENT "A" (H-791)** thereto, in **NON-CONCURRENCE**.)

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

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

Bill "An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties"
H.P. 1206 L.D. 1705
(C "A" H-769)

Tabled - March 31, 2010, by Senator **BARTLETT** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)**, in concurrence.)

(In House, March 31, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in **NON-CONCURRENCE**.)

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

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

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

An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization
H.P. 1088 L.D. 1544
(C "A" H-787)

Tabled - March 31, 2010, by Senator **MARRACHÉ** of Kennebec

Pending - **ENACTMENT**, in concurrence

(In House, March 30, 2010, **PASSED TO BE ENACTED**.)

(In Senate, March 31, 2010, **PASSED TO BE ENACTED**, in concurrence. On motion by Senator **MARRACHÉ** of Kennebec, **RECONSIDERED**.)

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.

Senator **SHERMAN** of Aroostook 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 (1/19/99) Assigned matter:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, a Major Substantive Rule of the Department of Environmental Protection

H.P. 1224 L.D. 1725
(S "A" S-493 to C "B" H-678)

Tabled - March 31, 2010, by Senator **RAYE** of Washington

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 30, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-678) AS AMENDED BY SENATE AMENDMENT "A" (S-493)** thereto.)

(In House, March 31, 2010, **FINALLY PASSED.**)

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

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

An Act To Prohibit Surcharges on the Use of Debit Cards
H.P. 1266 L.D. 1779

Tabled - March 31, 2010, by Senator **RAYE** of Washington

Pending - **ENACTMENT**, in concurrence

(In Senate, March 30, 2010, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 31, 2010, **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 Today Assigned matter:

An Act Relating to the Membership of the Workers' Compensation Board

H.P. 1103 L.D. 1566
(S "A" S-399 to C "A" H-659)

Tabled - March 31, 2010, by Senator **MARRACHÉ** of Kennebec

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

(In Senate, March 23, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-659) AS AMENDED BY SENATE AMENDMENT "A" (S-399)** thereto.)

(In House, March 31, 2010, **PASSED TO BE ENACTED.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#387)

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

Bill "An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions"
S.P. 341 L.D. 891
(S "C" S-489 to C "A" S-386)

Tabled - March 31, 2010, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **RAYE** of Washington to **ADHERE**

(In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY SENATE AMENDMENT "C" (S-489)** thereto.)

(In House, March 30, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386) AS AMENDED BY HOUSE AMENDMENT "A" (H-801)** thereto, in **NON-CONCURRENCE.**)

(In Senate, March 31, 2010, motion by Senator **GOODALL** of Sagadahoc to **RECEDE** and **CONCUR, FAILED.**)

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

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 (#388)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BARTLETT** of Cumberland to **RECEDE, PREVAILED.**

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

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 (#389)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BARTLETT** of Cumberland to **CONCUR, PREVAILED.**

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

An Act To Strengthen the Ballot Initiative Process
S.P. 662 L.D. 1730
(S "B" S-481; S "C" S-487
to C "A" S-443)

Tabled - March 31, 2010, by Senator **RAYE** of Washington

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

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 (#390)

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, SHERMAN, SMITH, TRAHAN, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

The Chair laid before the Senate the following Tabled and Later (1/19/99) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Commissioner of Education's Rule-making Authority"
H.P. 1272 L.D. 1784

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A"** (H-777) (2 members)

Tabled - March 31, 2010, by Senator **ALFOND** of Cumberland

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

(In House, March 31, 2010, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-777) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-808) thereto.)

(In Senate, March 31, 2010, Reports **READ**.)

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

Senator **ALFOND:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise just to describe a little bit about why I moved the Minority Report. In committee we got this bill very late. The bill, as it was brought to us, was a bill called 'An Act Regarding the Commissioner of Education's Rule Making Authority'. We heard this and, because we had a time limitation on the bill, we voted it out very quickly, but we also told the bill's sponsor that it did seem too limited in scope. The Minority Report that came out of the other Body is 'A Resolve to Establish the Commission to Study the Rule Making Process Under the Maine Administrative Procedure Act', also commonly referred to as the APA. In the Education Committee this issue couldn't have been more relevant. We, last session, passed a bill. The bill was adopted by both Bodies and signed by the Governor. This session, in the Education Committee, the Commissioner brought an emergency rule making bill. In fact, we just enacted it today. In that rule making process she overturned a law that we had passed, a law that we all supported. It was a unanimous decision out of the committee. Both Bodies supported it. The Governor signed it. Essentially, the bill sponsor said maybe there was a problem here and went and talked to a lot of different committees. It's not just happening in Education, it's happening in many committees. This bill, essentially, would take a broad look at the APA process and report back to the 125th Legislature. I think it's a real opportunity to analyze the APA process during this off-season that we have here. I really think it's an opportunity for the Legislative branch of government to look at this. We understand what we can do. I guess it's more what the Executive branch does and what they can do when they over rule things that we do. I think we take a lot of thought at what we do in our committees and when we pass laws. I certainly find it very troubling that in the next consecutive session a Commissioner can come back and over rule us. I hope that folks here in the Body will follow my light. I think it's a good bill and I hope that we can get this study done. Thank you.

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

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I think the amendment has been accurately described by the good Senator from Cumberland as a bill. It's a whole new, free standing bill coming out of the committee that doesn't even have jurisdiction over the subject matter. It isn't that we all aren't concerned, broadly, about our duties as Senators, but this is an issue that is within the province of the State and Local Government Committee. It is a free standing bill under camouflage of an amendment. Who is to say this needs a study? It seems to me that it would be up to the committee that has jurisdiction to make that determination and this is an appropriate measure, perhaps, to bring forward as a bill next November and present it to the State and Local Government Committee to see if they think some changes ought to be made or whether a study

should happen. To take a committee that is disappointed in the outcome of a specific issue of rulemaking and to convert that into a generic and broad based call for an overhaul of the whole procedural system, the Administrative Procedural Act, just seems to me that it smacks of a vendetta. We shouldn't be dealing with broad pieces of legislation like this that are free standing bills at the end of the session. That's what next sessions are for. It seems to me that we should defeat the pending motion and go on to the next appropriate motion. Thank you.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I hadn't expected to stand but I do support the Senator from Cumberland, Senator Alfond's motion. I'm standing because I was the former Chair of the State and Local Government Committee. Unfortunately, this theme of improper action on rulemaking keeps cropping up. In fact, we had one piece of legislation that came up that we passed that had to do with an issue that the Senator from Knox, Senator Rector, had brought before the State and Local Government Committee. This keeps coming up in all sorts of different committees. Health and Human Services mentioned that there was a problem with rulemaking issues. First of all, about the amendment. When we do amendments in committee changes like this always occur. This is not unusual. This is not some free standing bill. This is very much within the realm of the original bill. Sending it to a different committee also happens frequently. This is not something that is unusual. The only unusual part about it is that we're moving a two-person report. Frankly, that happened because of a very pushed timeframe that we were under. That's why that occurred. I truly believe that if we had had a little bit more time perhaps this would have been either re-referred to the State and Local Government Committee or we would have had a much larger group in favor of this piece of legislation. Clearly the other Body is in agreement and so I think we're here because there is a problem and we're talking about the balance of power here. In this case the Administration was able to undo something based on the fact that this was an emergency rule under the guise that they were using the emergency rule as a way to save money, money that was never booked in this budget. There was a hearing held the week of Christmas. This is a very interesting issue here and I think it is very much warranted to look at this more thoroughly and I would hope that you would support the pending motion, given that this is a problem that keeps cropping up. I think it is something that would help the next legislature to make some decisions on how this can be prevented in the future. Thank you very much.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#391)

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

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

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator ALFOND of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-777) **READ**.

House Amendment "A" (H-808) to Committee Amendment "A" (H-777) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-777) as Amended by House Amendment "A" (H-808) thereto, **ADOPTED**, in concurrence.

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

Off Record Remarks

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force" (EMERGENCY) S.P. 710 L.D. 1810

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-500)**.

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

READ ONCE.

Committee Amendment "A" (S-500) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Require That Expedited Wind Energy Development Projects Provide a Tangible Benefit to Maine Ratepayers in the Form of Discounts to Future Electric Rates" S.P. 582 L.D. 1504

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-501)**.

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

READ ONCE.

Committee Amendment "A" (S-501) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

H.P. 1227 L.D. 1728
(C "A" H-799)

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise to urge your support of the so-

called Highway Fund Budget for this year and moving forward. It comes to us as the result of actions that were taken in our original budget that called for decreases in what we were looking at and then supplemental actions that were taken so that we could come with the budget that we bring to you today. I think we found one-time savings of somewhere around \$32 million that we were able to put towards maintenance paving of our road system primarily. You will recall, perhaps, that in our last session, as we ended, we have a program set up, presumably, to pave 600 miles of roads annually. Last year we were able, by cobbling some money together and actually going into a capital account, to pave 235 miles of roads instead of 600. The point is that if we don't pave the 600 miles each year and continue that program our road system goes further and further into deterioration. That's not what you want. That's not what your constituents want. That's not what the state of Maine needs for our transportation system, roads in particular. This year, coming into this budget, we had zero money available for that maintenance surface treatment, the paving of our roads. That is a terrible position to be in. Through one-time measures, as I have previously mentioned to you, along with some savings and further reductions in our personnel at the Department of Transportation, we were able to come up with \$32 million which will provide for that 600 miles of paving and more. We had a very strong committee report. I was trying to determine whether it was a real unanimous report or a unanimous 12-1 report that we get sometimes from that committee. In either event, it was a strong committee report and I understand that the other Body has given it a strong vote as well, perhaps as much as 140 in support and 1 in non-support. I hope that we could support this budget. It's the best one that we can come up with in these difficult times.

Like our General Fund Budget, I certainly want to commend the members of the Transportation Committee, our analyst, and the people within the Transportation Department, the Department of Public Safety, the Secretary of State, and the Bureau of Motor Vehicles, along with all of those bureaus and associations and agencies that helped us to get this budget to you in this form. I would urge your support. 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 want to congratulate the good Chair and good Lead and the other members of Transportation for working through this most difficult recession in our lifetime and helping people on this side to move forward with a common sense solution that didn't involve raising the gas tax. When it is time to vote I will gladly follow my leader and vote in favor of this budget. Thank you.

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

Senator **GOOLEY:** Thank you, Madame President. It really has been an honor for me to serve on the Transportation Committee during the past two years. It's been very contentious because of the funding problems. We worked through it and with this supplemental budget we did come up with what is probably palatable to most motorists out there, not all of them. To come up with the monies for the 600 miles of maintenance paving was a good thing. Yes, it was a unanimous report. We do have one

member in the other Body that might have been apt to vote against it, but it was unanimous, 13 - 0. Thank you.

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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:

Non-Concurrent Matter

Bill "An Act To Promote the Establishment of Innovative Schools" (EMERGENCY)

S.P. 706 L.D. 1801
(C "A" S-455)

Tabled - March 31, 2010, by Senator **RAYE** of Washington

Pending - motion by Senator **ALFOND** of Cumberland to **RECEDE** and **CONCUR**
(In Senate, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455).**)

(In House, March 30, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455) AS AMENDED BY HOUSE AMENDMENT "A" (H-800)** thereto, in **NON-CONCURRENCE.**)

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

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

The Chair laid before the Senate the following Tabled and Later (3/22/10) Assigned matter:

HOUSE REPORT - from the Committee on **NATURAL RESOURCES** on Bill "An Act To Clarify Maine's Phaseout of Polybrominated Diphenyl Ethers"

H.P. 1105 L.D. 1568

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-731)**

Tabled - March 22, 2010, by Senator **GOODALL** of Sagadahoc

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

(In House, March 18, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-731)**.)

(In Senate, March 22, 2010, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-731) **READ**.

On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "C" (S-502) to Committee Amendment "A" (H-731) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you, Madame President. Men and women of the Senate, this bill is concerning Decca and dealing with plastic pallets. The amendment that is put forth today, and which I hope you join me in supporting, is dealing with a clarification regarding the chemical compounds and flame retardants dealing with brominated and chlorinated flame retardants. There are some questions about how broad reaching the committee amendment was. This clarifies it and limits it to those two in a flame retardant. In addition to that, it makes a technical amendment dealing with the amount of Decca present in plastic pallets. It creates a study group so that if there are any issues concerning the phasing out of Decca and chlorinated and brominated flame retardants the Department of Environmental Protection reports to the Natural Resources Committee by January 15, 2011. Lastly, it moves back the ban until June 2011. Thank you, Madame President.

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

Senator **SMITH:** Thank you, Madame President. Just a couple of words about this amendment. For the most part, I agree with the amendment and with the statements that have been made by the good Senate Chair. There is one small aspect, however, of this amendment that I think the Senate ought to be aware of before this matter is concluded. We have been going through, for some time now, a process in the Natural Resources Committee to set up some fair and quite elaborate procedures for banning chemicals in this state. It has been, I think, a thoughtful process, one that is now a fair and predictable process for all parties. What this amendment does is basically circumvent those processes that have been set up to accomplish such a banning. It is a narrow area, but I think it's a regrettable part of this amendment that has been offered. I'm not going to resist it today, but I want the Senate to know that, at least from this Senator's perspective, that if we're going to set these processes up, and I think they are good ones, we ought to honor them ourselves. This is an aspect of this amendment which I do not believe gives full value to that. With that minor exception, I will support this

amendment here today. I think it is regrettable that we have undermined that particular aspect of it but I'm willing to go along with it here today. Thank you very much for your time.

On motion by Senator **DAVIS** of Cumberland, 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 Androscoggin, Senator Simpson.

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, like my good friend from the other side of the aisle, I have struggled a lot with the process on how this particular small ban in the bill came about. At the end of the day I can support it because the amendment is drafted to stop plastic pallets from replacing Decca with these two chemicals. There is only one company actually using Decca in plastic pallets and they agreed to accept that they couldn't replace it with these chemicals. I hope you will all join us in supporting the amendment.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Goodall to Adopt Senate Amendment "C" (S-502) to Committee Amendment "A" (H-731). 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 (#392)

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

NAYS: Senators: None

ABSENT: Senator: **BOWMAN**

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being absent, the motion by Senator **GOODALL** of Sagadahoc to **ADOPT** Senate Amendment "C" (S-502) to Committee Amendment "A" (H-731), **PREVAILED**.

Committee Amendment "A" (H-731) as Amended by Senate Amendment "C" (S-502) 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-731) AS AMENDED BY SENATE AMENDMENT "C" (S-502)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

Senator **RAYE** of Washington 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, April 1, 2010, at 9:00 in the morning.