

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

In Senate Chamber
Tuesday
March 30, 2010

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

Prayer by Leslie Manning, Durham Friends Meeting.

MS. MANNING: Good morning, friends. Three hundred and fifty years ago this spring, Mary Dyer was executed on Boston Common for the crime of being Quaker. Our testimonies of peace and equality were considered heretical by the Governors of the colony, and the idea of a woman preaching or interpreting the word of God was intolerable. Tomorrow, the thirty-first of March, is the birth date of César Chávez, organizer and advocate for the poor. I offer his prayer of the farm worker in honor of all of those who work for justice. 'Show me the suffering of the most miserable; so I will know my people's plight. Free me to pray for others; for You are present in every person. Help me to take responsibility for my own life; so that I can be free at last. Grant me courage to serve others; for in service there is true life. Give me honesty and patience; so that the Spirit will live among us. Let the Spirit flourish and grow; so that we will never tire of the struggle. Let us remember those who have died for justice; for they have given us life. Help us love even those who hate us; so that we can change the world.' Amen.

Reading of the Journal of Monday, March 29, 2010.

Doctor of the day, Dr. Elena Nawfel, MD of Waterville.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To License Home Building and Improvement Contractors"
H.P. 215 L.D. 272

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-760)** (6 members)

In House, March 25, 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-760)**.

In Senate, March 26, 2010, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **SCHNEIDER** of Penobscot, the Senate **ADHERED**.

Off Record Remarks

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The members of the Calais High School Girls Basketball Team, who won the 2010 Class C State Championship. The team entered the tournament as the 6th seed and went on to win the State Championship game by a score of 44-38. This is the first state title for the team since 2001. We extend our congratulations to all of the members of the team, Allison Hill, Alex McVicar, Jacqui Mingo, Sarah Smith, Kat Clement, Shannon Brown, Hillary Hollingdale, Meaghan Cavanaugh, Rebecca Redding, Emily McFadden, Rebecca Blake, Brook Young and Nicole Osborne, and their coaching staff, Dana Redding, Rob Moholland, Laverne Redding and Bill McVicar, on their accomplishment;
SLS 426

Sponsored by Senator RAYE of Washington.
Cosponsored by Representatives: McFADDEN of Dennysville, PERRY of Calais.

READ.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, it is a pleasure to stand and join in recognizing and honoring the Calais Blue Devils Girls Basketball Team. They have brought great pride to their community and to all of Washington County on achieving the ultimate in basketball and bringing home the gold ball. The Calais Blue Devils boys have been a powerhouse on the state scene for some number of years and it is wonderful to see the girls now achieve this honor and I am very pleased to have them here today. On behalf of all of us in Washington County, I just want to express my pride in this outstanding group of young girls and their excellent coaching staff. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair would ask this distinguished team to stand and accept the greetings of the Maine Senate.

The Edward Little High School Boys Basketball Team, of Auburn, which won the 2010 Class A KVAC Conference Championship. We congratulate the team on this achievement;
SLS 428

Sponsored by Senator SIMPSON of Androscoggin.
Cosponsored by Representatives: BEAULIEU of Auburn,
BICKFORD of Auburn, BOLDUC of Auburn.

READ.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, it's a great pleasure to congratulate Edward Little High School Basketball Team, Eastern Maine champions, both in 2009 and 2010, and also the Kennebec Valley Conference Champions in 2009 and 2010, so that makes them state runner-up in both 2009 and 2010. The team record this year was 19 wins and 3 losses, and the people of Auburn are very proud of you. I would also like to let members know that there's at least one player I coached in junior soccer, so it was a good idea for him to change sports after my bad coaching. Congratulations. I also attended high school with a number of the players' parents, so it's really fun and exciting to see that community spirit carry on. Congratulations to their coaches, Mike Adams, Mike Theriault, Chris Williamson, Paul Cody, and Bruce Nicholas. I would like to single out James Philbrook, Maine McDonald's High School Senior All-star Team member. He's also been named Kennebec Valley Athletic Conference First Team All-star, so congratulations to him as well. Perhaps I could beg the indulgence of the Senate, I would also like to recognize Kirsten Prue, Maine McDonald's High School Senior All-star Team Kennebec Valley Athletic Conference leader in scoring 16 points per game and 7 assists.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair would ask this outstanding team and the students recognized to please stand and accept the greetings of the Maine Senate.

Abby Dunn, of Auburn, a student at Edward Little High School, who won a pair of All-American awards at national racewalking events in Boston. She won the one-mile event at the 27th National Scholastic Indoor Championships and placed 4th in the Nike National Scholastic Indoor Track and Field Championships. We extend our congratulations to Abby on these achievements;
SLS 429

Sponsored by Senator SIMPSON of Androscoggin.
Cosponsored by Representatives: BEAULIEU of Auburn,
BICKFORD of Auburn, BOLDUC of Auburn.

READ.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, it's a pleasure to recognize Abby Dunn and acknowledge that she's a sophomore at Edward Little High School, so we expect great things from her in the future as well. She was the 2009 KVAC Conference Champion in the mile race walk, the 2009 State Champion in the mile race walk and this year she was at the Nike Indoor Nationals All-American and she won fourth place. At the National Scholastic Indoor Championships she was first-place All American, so congratulations to her. Good luck in your future endeavors.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair would ask that Abby Dunn please stand and accept the congratulations of the Maine Senate.

Joint Resolution

On motion by Senator **RAYE** of Washington (Cosponsored by Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BLISS of Cumberland, BOWMAN of York, BRANNIGAN of Cumberland, BRYANT of Oxford, COURTNEY of York, CRAVEN of Androscoggin, DAMON of Hancock, DAVIS of Cumberland, DIAMOND of Cumberland, GERZOFISKY of Cumberland, GOODALL of Sagadahoc, GOOLEY of Franklin, HASTINGS of Oxford, HOBBS of York, JACKSON of Aroostook, MARRACHÉ of Kennebec, McCORMICK of Kennebec, MILLS of Somerset, President MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RECTOR of Knox, ROSEN of Hancock, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SIMPSON of Androscoggin, SMITH of Piscataquis, SULLIVAN of York, TRAHAN of Lincoln, WESTON of Waldo, Representatives: ADAMS of Portland, AUSTIN of Gray, AYOTTE of Caswell, BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BECK of Waterville, BERRY of Bowdoinham, BICKFORD of Auburn, BLANCHARD of Old Town, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BROWNE of Vassalboro, BRYANT of Windham, BURNS of Whiting, BUTTERFIELD of Bangor, CAIN of Orono, CAMPBELL of Newfield, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA

of Naples, CELLI of Brewer, CHASE of Wells, CLARK of Millinocket, CLARK of Easton, CLEARY of Houlton, COHEN of Portland, CONNOR of Kennebunk, CORNELL du HOUS of Brunswick, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CROCKETT of Augusta, CURTIS of Madison, CUSHING of Hampden, DAVIS of Sangerville, DILL of Cape Elizabeth, DOSTIE of Sabattus, DRISCOLL of Westbrook, DUCHESNE of Hudson, EATON of Sullivan, EBERLE of South Portland, EDGECOMB of Caribou, EVES of North Berwick, FINCH of Fairfield, FITTS of Pittsfield, FLAHERTY of Scarborough, FLEMINGS of Bar Harbor, FLETCHER of Winslow, FLOOD of Winthrop, FOSSEL of Alna, GIFFORD of Lincoln, GILBERT of Jay, GILES of Belfast, GOODE of Bangor, GREELEY of Levant, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, WALSH INNES of Yarmouth, JOHNSON of Greenville, JONES of Mount Vernon, JOY of Crystal, KAENRATH of South Portland, KENT of Woolwich, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, LAJOIE of Lewiston, LANGLEY of Ellsworth, LEGG of Kennebunk, LEWIN of Eliot, LOVEJOY of Portland, MacDONALD of Boothbay, MAGNAN of Stockton Springs, MARTIN of Orono, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McFADDEN of Dennysville, McKANE of Newcastle, McLEOD of Lee, MILLER of Somerville, MILLETT of Waterford, MITCHELL of the Penobscot Nation, MORRISON of South Portland, NASS of Acton, NELSON of Falmouth, NUTTING of Oakland, O'BRIEN of Lincolnville, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PETERSON of Rumford, PIEH of Bremen, PILON of Saco, Speaker PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, PRATT of Eddington, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, ROBINSON of Raymond, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SARTY of Denmark, SAVIELLO of Wilton, SCHATZ of Blue Hill, SHAW of Standish, SIROIS of Turner, SMITH of Monmouth, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, SUTHERLAND of Chapman, SYKES of Harrison, TARDY of Newport, THERIAULT of Madawaska, THIBODEAU of Winterport, THOMAS of Ripley, TILTON of Harrington, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, VAN WIE of New Gloucester, WAGNER of Lyman, WAGNER of Lewiston, WATSON of Bath, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WHEELER of Kittery, WILLETTE of Presque Isle, WRIGHT of Berwick), the following Joint Resolution:

S.P. 745

JOINT RESOLUTION SUPPORTING THE CREATION OF A MAINE BASKETBALL HALL OF FAME

WHEREAS, basketball is an American pastime that has been popular in Maine since it was invented and Maine high school and college basketball has been an institution and part of every Maine community for a century; and

WHEREAS, Maine basketball and all of those who have contributed to the sport in this State have had a direct influence on both the evolution and the identity of numerous Maine communities; and

WHEREAS, every Maine community has taken pride in the accomplishments of its high school basketball teams and players for decades and, moreover, these communities have honored and recognized the contribution of fans, players, cheerleaders, reporters, coaches, managers and trainers to the game of basketball and to the community itself; and

WHEREAS, the State of Maine appreciates the court performances of its outstanding basketball players, as well as the leadership, direction and dedication of its basketball coaches; and

WHEREAS, in order to remember the long history of basketball in Maine, it is time to organize and establish a Maine Basketball Hall of Fame to recognize Maine's outstanding basketball players and to also recognize the tradition of Maine basketball and the achievements of the sport's many participants, which have been a source of pride and positive influence for the citizens of Maine for many decades; now, therefore, be it

RESOLVED: that We, the members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize all of Maine's basketball players, past and present, male and female, including Maine's outstanding basketball players and contributors, and endorse and support the creation of the Maine Basketball Hall of Fame.

READ.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I rise today just to say a few words about this issue. I was contacted last fall by Mr. Jim Carroll, a basketball luminary himself, about the effort to establish a Maine Basketball Hall of Fame. I think it's surprising to many of us that there has not already been such a hall of fame, given the central role of basketball in the lives of our communities from one end of this state to the other. Just today, we honored two outstanding teams, the Auburn boys and the Calais girls, on their achievement. I think all of us know from our own experience in life the enormous and valuable lessons that are taught to our young people all across this state, through participation in this wonderful sport, and the way in which it prepares them so well for their lives to follow. I wanted just to rise to express my appreciation to this chamber for their support of this effort. I want to recognize a few of the folks who are here, and I would be remiss if I did not recognize, of course, the Senator from Aroostook, Senator Sherman, a basketball luminary himself, who over the course of a 12-year career as a coach, compiled a very impressive record of 210 wins and 30 losses. When you get up and running, you might want to think about Senator Sherman. I just wanted to say that I'm very pleased to have with us today some very well recognized names all over Maine who have been touched and had their lives enriched by the sport of basketball. Many of these names will be recognizable to you. Peter Webb,

Beth Staples, Wayne Smith, Jim Carroll, Frank Goodwin, Tom Mains, Dana Connors, Skip Chappell, Paul Vachon and Tim Bonsant. It is a pleasure to have the Legislature on record in support of their efforts to honor this great sport in this way. I've often thought that the movie 'Hoosiers' could have been made in Maine, because how many of us have wonderful stories of our high school days and our families, and our parents and grandparents before us, and how important this sport is in the life of this great state. Thank you, Madame President. I look forward to the passage of this Resolution.

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

Senator **SHERMAN:** Thank you, Madame President. Men and women of the Senate, I didn't intend to speak on this one. The record included a couple of years of junior high basketball, but I did coach 13 years with a group called the Hodgdon Girls and we did go to the states three times and we did lose once to Dirigo and then we beat them in the state championship. We had a fairly good record and we had some folks who went on to the University of Maine years ago and played there. All of those girls who have done well in life, and that was the enjoyment of coaching basketball for me. I would like to apologize to a gentleman sitting here by the name of Peter Webb, who has a Houlton connection. I don't know if I've had four or five technical fouls from the gentleman, but I apologize for whatever it was I said.

On motion by Senator **RAYE** of Washington, the Joint Resolution was **ADOPTED**.

Ordered sent down forthwith for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Peter Webb, Maine State Basketball Commissioner, accompanied by members of the Maine basketball community who are working to establish the Basketball Hall of Fame. Would they please stand and accept the greetings of the Maine Senate.

Off Record Remarks

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Requirements Governing Direct Initiatives

H.P. 1193 L.D. 1692

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

Signed:

Senator:
PLOWMAN of Penobscot

Representatives:
PINKHAM of Lexington Township
BEAULIEU of Auburn
VALENTINO of Saco
FITTS of Pittsfield
NASS of Acton
RUSSELL of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-688)**.

Signed:

Senators:
SULLIVAN of York
GOODALL of Sagadahoc

Representatives:
CORNELL du HOUX of Brunswick
TRINWARD of Waterville
CAREY of Lewiston
TUTTLE of Sanford

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

Reports **READ**.

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

Off Record Remarks

ORDERS OF THE DAY

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

Emergency

An Act To Improve the Laws Governing the Consolidation of School Administrative Units

H.P. 408 L.D. 570
(C "A" H-768)

Tabled - March 29, 2010, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-768)**, in concurrence.)

(In House, March 29, 2010, **PASSED TO BE ENACTED.**)

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

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

Emergency

An Act To Further Amend the Sex Offender Registration and Notification Act of 1999

H.P. 1305 L.D. 1822

Tabled - March 29, 2010, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, March 25, 2010, **PASSED TO BE ENGROSSED**, in concurrence.)

(In House, March 29, 2010, **PASSED TO BE ENACTED.**)

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

Off Record Remarks

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

Resolve, To Direct the Public Utilities Commission and the Public Advocate To Account for Certain Resource Expenditures

H.P. 1116 L.D. 1578
(C "A" H-697)

Tabled - March 22, 2010, by Senator **HOBBS** of York

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 16, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-697)**, in concurrence.)

(In House, March 18, 2010, **FINALLY PASSED.**)

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

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

HOUSE REPORTS - from the Committee on **NATURAL RESOURCES** on 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 (EMERGENCY)
H.P. 1224 L.D. 1725

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-677)** (6 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-678)** (4 members)

Tabled - March 29, 2010, by Senator **GOODALL** of Sagadahoc

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 26, 2010, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-678)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-678) AS AMENDED BY HOUSE AMENDMENT "A" (H-778)** thereto.)

(In Senate, March 29, 2010, Reports **READ.**)

On motion by Senator **GOODALL** of Sagadahoc, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-678)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "B" (H-678) **READ.**

House Amendment "A" (H-778) to Committee Amendment "B" (H-678) **READ.**

Senator **GOODALL** of Sagadahoc moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-778) to Committee Amendment "B" (H-678), in **NON-CONCURRENCE**.

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

Senator **GOODALL:** Thank you, Madame President. Men and women of the Senate, at this point I hope you join me and indefinitely postpone this amendment. This is a technical issue and I will move an amendment in a few minutes that will clarify the situation in which a deal was brokered with all interested parties.

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

Senator **TRAHAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, I just wanted to rise in support of the motion. Having been involved in the negotiations for the amendment that will appear later, I think this is a great move. Thank you.

On motion by Senator **GOODALL** of Sagadahoc, House Amendment "A" (H-778) to Committee Amendment "B" (H-678) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-493) to Committee Amendment "B" (H-678) **READ**.

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

Senator **GOODALL**: Thank you, Madame President. Men and women of the Senate, at this point this amendment will replace the House Amendment due to some technical issues. Ultimately what is going to happen is that this is a culvert bill that many of you have heard about and there were a lot of concerns. Major concerns came up after the bill was reported out of committee. At that point, numerous folks at the table sat down and worked hard to come up with a solution, and this amendment has multiple parts. One, it will only apply to new culverts being installed, not replacement or maintenance. In addition to that, it will create a series of meetings of stakeholder groups that happen around the state dealing with parties that include the DEP, the DOT, IF&W, DMR, and many municipalities. They're going to be looking at training information and also evaluating the rule. This will allow the DOT, along with the DEP, to report back to the Natural Resources Committee next year with a report to then move forward with the rule. The rule will go into place for new culverts beginning January 1st. I hope you will join me in support of this motion.

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

Senator **SMITH**: Thank you, Madame President. Men and women of the Senate, just a couple of quick things. The effect of this amendment is to basically send a good part of this rule back to DEP for further rulemaking, but in the meantime the new construction is going to affect a number of people, undoubtedly, in the state. Largely it's going to be your individual constituents. I don't believe there's going to be very much new construction that's going to affect your towns; they can't afford it right now. It's going to be unlikely that we'll see very much local construction. The type of situation that you're likely to see is the homeowner who's been building a home since last fall and they're going to put in their permanent driveway this spring or later this summer or into the fall, more particularly. They will find that they are going to run up against these new and sometimes very expensive requirements for going across a stream. The one thing, if I may Madame President, I'd inquire of the sponsor that it's my understanding that new construction means new construction of the road and any culvert in it. Basically new road construction or reconstruction of the road that involves a culvert, not simply the replacement of an existing culvert in an existing road.

THE PRESIDENT: The Senator from Piscataquis, Senator Smith poses a question through the Chair to anyone who may wish to

answer. The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL**: Thank you, Madame President. Men and women of the Senate, I would answer in the affirmative. It is my understanding that it would apply only to new construction or reconstruction requiring new installation.

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

Senator **TRAHAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in support of the amendment, but I did want to clarify what the good Senator had said previously. Some folks will still be affected. When we were working through the stakeholders group, I don't believe that we could have gone any further than we did. I still have a little heartburn with what is going to occur for those folks, but I think it was the best we could do. How I finally came to the realization that this was a good idea is that it's really only going to affect a four-month window of construction into the middle to the end of the summer. Those folks will be affected for that period, but hopefully in January when all the rules come back, even for the individuals, this issue will have been resolved. For me that four-month window is worth accepting for this amendment. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **NUTTING**: Thank you, Madame President. While I very much like the sound of this amendment, I do need to pose a question. For instance, if a municipality is planning on building a new road this summer next to a mountain or something, where there may be an intermittent stream only in the spring, a stream that has never had any fish in it and probably never will, if this amendment passes are they still going to have to build that culvert over this stream to the fish passage standards even if the intermittent stream has never had, and never will have any fish in it? Thank you.

THE PRESIDENT: The Senator from Androscoggin, Senator Nutting poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL**: Thank you, Madame President. Men and women of the Senate, this question came up at times during the committee process and there is a way to petition and seek relief from the rule through the DEP if it is not practicable to build to that standard. However, these standards are in place to allow fish passage, so there are going to be certain circumstances where nothing can pass and it's not practicable. It would then have to seek relief from the DEP, and that does occur.

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

Senator **TRAHAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, during the negotiations on this stakeholders group, the Maine Municipal Association was very comfortable with this amendment and said that they didn't believe towns or municipalities would be building roads, so it really had no effect on those folks.

On motion by Senator **GOODALL** of Sagadahoc, Senate Amendment "A" (S-493) to Committee Amendment "B" (H-678) **ADOPTED**.

Committee Amendment "B" (H-678) as Amended by Senate Amendment "A" (S-493) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-678) AS AMENDED BY SENATE AMENDMENT "A" (S-493)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

Bill "An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities"

H.P. 313 L.D. 425
(C "A" H-663)

Tabled - March 29, 2010, by Senator **BARTLETT** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence (Roll Call Ordered)

(In House, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-663)**.)

(In Senate, March 29, 2010, **READ A SECOND TIME**.)

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

Senator **RAYE**: Thank you, Madame President. Men and women of the Senate, before we proceed to the roll call vote on this legislation, I wanted to pose a question through the Chair if I could, Madame President.

THE PRESIDENT: The Senator may pose his question.

Senator **RAYE**: Thank you, Madame President. It is of concern to some of us that in this effort to assist people and families with children with disabilities, that there may be unintended consequences, and that some services that are now provided routinely through the CDS, may in fact now fall under the category of requiring approval as being medically necessary if they are to be covered by private insurance. I wanted to pose a question through the Chair to see if there's anyone in the chamber who could address that concern.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **PLOWMAN**: Thank you, Madame President. As families begin to apply for these benefits, will they be subject to co-pays and deductible amounts in order to get these services where they wouldn't now be subject to those?

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

Senator **BOWMAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, I can't answer that last question, but I would like to make a couple of statements. One is that early intervention services are required by IDEA, which is the Individuals with Disabilities Education Act, and under federal law we have to provide these services and pay for these services. However, the state can be and often is a payer of last resort. Maine is the last New England state to move forward with such a mandate. In fact, L.D. 425 is modeled after the New Hampshire legislation, which is the least onerous among all of those of the New England states. As a result of implementation of L.D. 425, MaineCare savings are estimated at \$275,000 and savings to the General Fund are estimated at \$70,000. I pose a rhetorical question, and for those who aren't familiar with rhetorical questions, it needs and asks for no answer. Do you want to use socialized medicine to pay for these services or do you want to use insurance premiums? Thank you.

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

Senator **McCORMICK**: Thank you, Madame President. Men and women of the Senate, as Senator Bowman has stated, this is a shift of costs from what we currently have, which are combined federal/state programs, off to the private sector policyholders. It's not a straight dollar-for-dollar shift. When we shift these costs to policyholders we lose the current federal match of nearly two-thirds, so we're shifting an even larger burden to private sector policyholders. The bill states that there has to be a referral from the child's primary care provider to be eligible for these services. Some legitimate questions have already been raised that we haven't provided the answers for. Will people be subject to co-pays from their policies? We know that insurance is required to cover \$3,200 a year in services for the first three years of the child's life. We are unable to answer your question of 'will they be subject to co-pays along the way that they wouldn't now be paying under the combined federal/state programs?' I think this is one of those mandates where you can safely say that there are no additional services that are going to be provided. There are no additional children who are going to be identified for services.

There are additional costs transferred to the private sector policyholders, so there is no reason why we should do this at this time. I would urge you to oppose the current motion. For those who have an interest, I checked once again and this is one of those bills on the infamous watch list. I urge your rejection of this bill. Thank you, Madame President.

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

Senator **BOWMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just wanted to pick up on one of the questions from my good and highly esteemed colleague from Kennebec, and that is it is not clear whether more or less children would be affected by L.D. 425. I read the report from the Bureau of Insurance and it does not talk about that, and I'm not sure that anyone can make any claims in that regard. Further, I can't say definitively, but as far as co-pays are concerned, my experience is that it depends on what kind of insurance, what kind of policy you have, whether you pay co-pays or not. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. Ladies and gentlemen of the Senate, this has been a very interesting debate that seems to have turned all forms of preconceived notions of where people might stand with this on its head. What I find interesting is that what we're talking about is taking folks who may be receiving state-provided care through MaineCare and trying to move them into private insurance. It seems to me that we're always looking for ways to reduce our costs at the state level to reduce our MaineCare budget. This seems like a natural way to do it, by saying that if private insurance is available, it should be utilized first, then we can come in and deal with other issues. If there are folks who are being charged co-pays that make it unaffordable, if there are any gaps that we see, it's a whole lot cheaper to step in and fill those gaps than it is to pay for the whole service itself. It seems natural that if we really want to lower the costs on taxpayers and place these costs where they belong, on the insurance for which people are paying premiums, this is a good step in the right direction. Certainly if there are some costs, we want to work together to fill in, to cover co-pays or other expenses people may have. That's a whole lot cheaper than paying for the whole cost.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, it is my understanding that most of the private insurance companies that you hold a policy with, if you go and ask for these services, you are already covered. It is typically a mandate, that is if you want to call it a mandate, that's already in your private insurance. It just seems to be a little easier to go to MaineCare because that's quicker and no one's going to complain if they're not paying for it. The reality is that we are paying for MaineCare. It is my understanding that there is exactly one insurance company that is not paying for this service. Once again, this insurance has done this in the past, where we have had to pass what appears to be a mandate, because one insurance company refuses to pay for it. I am somewhat

concerned that the Superintendent has taken this insurance company before for failure to stand up, and maybe we need to look at it. This is not a new mandate, we are trying to make all insurance companies pay for what they're suppose to be paying for and what they've agreed to. I am not concerned that we use the word 'new mandate' here.

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

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, there are several points I would like to raise. One, when it is this program, the costs are very much contained by the federal and state rules that are put forward. Second, it is a new mandate if it costs new money. Third, I am supposed to look out for all the taxpayers of the State of Maine, and while it may look good at the state level, it doesn't look good for my school districts, and it doesn't look good for my towns, and it doesn't look good for my counties. Every time we pass on a mandate, it doesn't just flow to the state employees, and it doesn't just flow to the private sector. It flows to all of those other state-supported health care plans that the people of the State of Maine need to support. No one has told us that a child has been denied a service. No one has told us that \$3,200 is enough. And no one has told us how some of the poorest people who are just barely keeping their insurance policies, are suppose to come up with a deductible. They may be the only person in their family that have access to health care that year, and if they have a \$1,000 to \$2,000 deductible, then they will be paying for services that they didn't have to pay for before. Even a \$15 co-pay may not be a stretch for you, but it's the difference between going to the doctor and not for many people. CDS has handled this quite well in the past. Our children's needs are being met, we draw down the federal match, and to me the fiscal note is questionable at best. In fact the fiscal note was quoted as 18% on the floor; it actually reflects a 22% fiscal note, with some estimates as high 80%. Now sometimes we need to pick and choose. We've already put two other mandates on health insurance this year. It's a children's issue, that's why we're looking like the bad guys. But it's a children's issue where the children are actually being cared for with a program that actually does what it's suppose to and where it has support of the people of the State of Maine. I don't understand why we need to put another mandate, I really don't. Maybe you do, in fact I think you do. I'm going to tell you, the school budgets are squeezed; the tax budgets in every town are already squeezed. I don't know how you tell a district with 400 employees, with 400 family plans, that they've got to squeeze three more mandates, three more mandates, out of their budget. I don't know how you tell them that along with everything else that they have to deal with in the next couple of years. What's working doesn't seem to need to be fixed. I'm sorry that I'm the one that has to stand up and say this, because I'm the one that you think is less credible, and that's unfortunate for the people of the State of Maine. It's very unfortunate. If the children are being cared for in the best possible way, then I don't see a reason for this.

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

Senator **BRANNIGAN:** Thank you, Madame President. Men and women of the Senate, I believe we were told in the beginning of

this discussion that we have to provide for these children. It's a requirement. We've also heard that many of them now are being paid for by their insurance companies. All we're asking here is that all insurance companies do the same. We have to take care of these kids, so if somebody can't make a deductible or can't make the co-pays, then they will be taken care of as they are now. If they go over the \$3,000-plus, then again they will be taken care of as they are now. It's a way to save a little bit of money. I don't think people here are trying to protect the insurance companies, although if this bill is on that list as the Senator from Kennebec has said, then maybe by voting against this we will be protecting insurance companies. We're protecting kids, we're trying to the best we can, and we should follow the rest of the states and require that insurance companies pay where they will, and then we will take care of the rest. Thank you.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, just a comment on some previous testimony about whether this was a mandate or we were just trying to force one insurance company to pay what they should be paying. It certainly is a mandate. We had to send this bill out for a mandate study last year, and the costs came back anywhere from 22 to 80 cents per member per month of additional cost. There's no question that it is a mandate and it's not particularly aimed at one insurance company not doing their thing. There was even a small additional cost to the state employee's health care system as there will be with all carriers. Thank you, Madame President.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

HOUSE REPORTS -from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment" (EMERGENCY)
H.P. 1089 L.D. 1547

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-725)** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-726)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "C" (H-727)** (1 member)

Tabled - March 29, 2010, by Senator **NUTTING** of Androscoggin

Pending - **ACCEPTANCE OF ANY REPORT**

(In House, March 26, 2010, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) AS AMENDED BY HOUSE AMENDMENT "A" (H-786)** thereto.)

(In Senate, March 29, 2010, Reports **READ**.)

On motion by Senator **NUTTING** of Androscoggin, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-725) **READ**.

House Amendment "A" (H-786) to Committee Amendment "A" (H-725) **READ**.

Senator **NUTTING** of Androscoggin moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-786) to Committee Amendment "A" (H-725), in **NON-CONCURRENCE**.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, this is a similar situation to what the good Senator Goodall had with a previous bill. We have to suspend the House amendment in order to put the Senate amendment on, which I'll speak on in just a little bit.

On motion by Senator **GOOLEY** of Franklin, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **INDEFINITELY POSTPONE** House Amendment "A" (H-786) to Committee Amendment "A" (H-725), in **NON-CONCURRENCE**.

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

Senator **COURTNEY** of York 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 (3/29/10) Assigned matter:

Bill "An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment" (EMERGENCY)

H.P. 1089 L.D. 1547

Tabled - March 30, 2010, by Senator **GOOLEY** of Franklin

Pending - motion by Senator **NUTTING** of Androscoggin to **INDEFINITELY POSTPONE** House Amendment "A" (H-786) to Committee Amendment "A" (H-725), in **NON-CONCURRENCE**

(In House, March 26, 2010, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) AS AMENDED BY HOUSE AMENDMENT "A" (H-786)** thereto.)

(In Senate, March 29, 2010, Reports **READ**.)

(In Senate, March 30, 2010, on motion by Senator **NUTTING** of Androscoggin, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-725) ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-725) **READ**. House Amendment "A" (H-786) to Committee Amendment "A" (H-725) **READ**.)

On motion by Senator **NUTTING** of Androscoggin, House Amendment "A" (H-786) to Committee Amendment "A" (H-725) **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-492) to Committee Amendment "A" (H-725) **READ**.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, this pesticide notification and pesticide registry has been an issue before our committee all year long and we had numerous work sessions on it. We had a three-way report at one point, 10 members to two members to one member. With the other Body and with involvement of members of the committee of this Body, a compromise was reached that everyone might not be perfectly happy with, but everybody could support to move things along for now. If you're using an airplane to apply pesticides and you live within 1,300 feet of a field, you could be on the registry if you wanted to be notified. If you're using a tractor-driven sprayer to apply pesticides in an orchard or a Christmas tree farm, it would be 500 feet. This amendment charges the Board to looking at various pieces of equipment and what should the various distances of notification be, and report back to our Committee next year. The difference between this amendment and the amendment from the other Body is that the Senate amendment removes the authority of the Committee to report out legislation next year. That's really the only change. I urge you to support this amendment. Thank you.

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

Senator **DAMON:** Thank you, Madame President. Men and women of the Senate, may I pose a question?

THE PRESIDENT: The Senator may pose his question.

Senator **DAMON:** Thank you, Madame President. It says, unless I'm incorrect here, that this amendment repeals the requirement for pre-season notification to apply pesticides using aircraft or air carrier equipment. Does that mean that those abutting property owners will not get notification unless they have asked to receive notification? Thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, the answer to the good Senator from Hancock's question is affirmative. Twelve members of the Committee felt that requiring only farmers in Maine to somehow locate every single abutter's name and address, and notify them in the winter that they could possibly be applying a pesticide in the coming summer, was far too onerous. We are going to be promoting this registry aggressively with the industry and the Department so that people will know it's there. You can sign up for it on the Internet and it takes about two minutes. That way you'll be notified every single time there's going to be an application. We did think what was passed last year was just too onerous, requiring every single farmer to locate every single abutting landowner whether or not they're a resident. Thank you.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-492) to Committee Amendment "A" (H-725) **ADOPTED**.

Committee Amendment "A" (H-725) as Amended by Senate Amendment "A" (S-492) 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-725) AS AMENDED BY SENATE AMENDMENT "A" (S-492)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Concerning Statewide Communications Interoperability"

H.P. 1201 L.D. 1700

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-775)** (4 members)

Tabled - March 29, 2010, by Senator **NUTTING** of Androscoggin

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

(In House, March 26, 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-775).**)

(In Senate, March 29, 2010, Reports **READ.**)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#381)

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

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, SMITH

ABSENT: Senators: BRYANT, HOBBS

29 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-775) **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.

The Chair laid before the Senate the following Tabled and Later (3/29/10) 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 29, 2010, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In House, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769).**)

(In Senate, March 29, 2010, **READ A SECOND TIME.**)

PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Ordered sent forthwith to the Engrossing Division.

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 1:00 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:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve the Essential Programs and Services Funding Formula"

H.P. 389 L.D. 551

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-793).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-793)**.

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

READ ONCE.

Committee Amendment "A" (H-793) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education (EMERGENCY)
H.P. 1238 L.D. 1741

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-795)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-795)**.

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

READ ONCE.

Committee Amendment "A" (H-795) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011" (EMERGENCY)

H.P. 1183 L.D. 1671

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-790)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-790) AS AMENDED BY HOUSE AMENDMENT "C" (H-798)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-790) **READ**.

House Amendment "C" (H-798) to Committee Amendment "A" (H-790) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-790) as Amended by House Amendment "C" (H-798) 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:

ENACTORS

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

Emergency Resolve

Resolve, To Prevent the Spread of Invasive Plants and Protect Maine's Lakes

H.P. 1090 L.D. 1548
(H "A" H-757 to C "A" H-724)

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

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

ENACTORS

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

Act

An Act To Allow a Maine-chartered Financial Institution To Conduct a Savings Promotion Raffle

S.P. 645 L.D. 1673
(C "B" S-418)

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

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

ENACTORS

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

Emergency Measure

An Act To Amend the Laws Governing County Jail Budgeting for York County

S.P. 668 L.D. 1745
(C "A" S-461)

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

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

ENACTORS

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

Acts

An Act To Make Corrections to the Life Settlement Laws
H.P. 1073 L.D. 1523
(S "A" S-462)

An Act To Support the Dairy Industry
H.P. 1316 L.D. 1829

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

Off Record Remarks

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

ENACTORS

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

Resolves

Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Expenditure Programs
H.P. 1195 L.D. 1694
(S "A" S-474)

Resolve, To Review Sales of Dairy Products
H.P. 1249 L.D. 1755
(S "A" S-468 to C "A" H-716)

Resolve, Directing the Right To Know Advisory Committee To Further Examine Requirements That Public Bodies Keep Records of Public Proceedings
H.P. 1279 L.D. 1791
(S "A" S-476 to C "A" H-734)

Resolve, To Continue Evaluating Climate Change Adaptation Options for the State
S.P. 733 L.D. 1818
(S "A" S-467)

Resolve, To Review and Update the Telecommunications Taxation Laws
H.P. 1306 L.D. 1823
(S "A" S-484)

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator ALFOND for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Make Certain MaineCare Rules Regarding Service Provided by the Department of Health and Human Services through the Department of Education Major Substantive Rules" (EMERGENCY)
S.P. 707 L.D. 1804

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-497)**.

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

READ ONCE.

Committee Amendment "A" (S-497) **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 Resolve

Resolve, Regarding Emergency Communications Services
H.P. 1315 L.D. 1828

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.

Off Record Remarks

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

ENACTORS

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

Acts

An Act To Require Insurance Companies To Cover the Cost of Prosthetics Containing Microprocessors
H.P. 15 L.D. 20
(C "A" H-748)

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

An Act To Implement the Recommendations of the Advisory Council on Health Systems Development Relating to Payment Reform

S.P. 735 L.D. 1819
(C "A" S-485)

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

Resolve

Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Private Information Contained in the Communications of Public Officials

H.P. 1288 L.D. 1802
(H "A" H-788 to C "A" H-735)

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

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

ENACTORS

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

Emergency Measure

An Act To Establish a Broadband Policy for Maine
H.P. 1174 L.D. 1646
(C "A" H-685)

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

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

ENACTORS

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

Mandate

An Act To Update the Laws Affecting the Maine Center for Disease Control and Prevention
H.P. 1130 L.D. 1592
(C "A" H-721)

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

ORDERS OF THE DAY

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

Bill "An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities"

H.P. 313 L.D. 425
(C "A" H-663)

Tabled - March 29, 2010, by Senator **RAYE** of Washington

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence (Roll Call Ordered)

(In House, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-663)**.)

(In Senate, March 29, 2010, **READ A SECOND TIME**.)

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence. (Roll Call Ordered)

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 Authorize a General Fund Bond Issue To Create a New Electronic Medical Records Infrastructure"

S.P. 675 L.D. 1761
(C "A" S-445)

In Senate, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-445)**.

Comes from the House, Bill **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in **NON-CONCURRENCE**.

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

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Surcharges on the Use of Debit Cards"

H.P. 1266 L.D. 1779

Majority - **Ought to Pass** (9 members)

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

Tabled - March 29, 2010, by Senator **RAYE** of Washington

Pending - motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, March 18, 2010, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

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

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

Senator **BOWMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, it's been awhile since we've talked about this last and, as you will recall, our colleague from Hancock presented a very humorous and interesting presentation. I couldn't follow it all, but I thought he talked about fees on debit and credit cards and inferred that this perhaps should be done at the federal level. I completely agree with that. I've always been interested in the facts and these are the facts on this bill as I see them. The purpose of the bill is to prohibit surcharges on debit cards and thereby protect customers. Maine has prohibited surcharges on the use of credit cards since 1981, and there were no debit cards at that point in time. One way of looking at this is that this bill is really a technical amendment because it adds debit cards to the credit card specification in existing law. If Maine has prohibited surcharging of credit cards since 1981, why should it not give the same protection to debit cards now? In fact, debit card transactions surpass credit card transactions in volume. I'm not aware of any attempt on the part of merchants to repeal the 1981 law, so rhetorically, why do they oppose this bill at this point in time? Again rhetorically, does someone want to impose surcharges in the future? Not to be answered. Maine provides a number of benefits to its citizens such as food stamps and unemployment, among other things, by debit card at the present time. If there were surcharges placed on debit cards, that would certainly complicate, to say the least, this process. I think everybody realizes that credit cards and debit cards actually provide a lot of benefits via electronic payments. Lines move faster, customers don't have to pull out their checkbooks or fumble for cash, which we usually don't have a lot extra of. To my knowledge a debit card is less risk than a credit card, so I can't see why somebody would want to put a surcharge on that. My final point is that normally the cost of a credit card, and I suggest to you the cost of a debit card, should like all other costs, be rolled into the price you pay at the counter. You should not get to the counter and then have a surcharge placed on you because you're using a debit card. This bill is backed by the AARP among others. Thank you for listening.

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

Senator **ROSEN:** Thank you, Madame President. Ladies and gentlemen of the Senate, like so many pieces of legislation that we have before us, often times we need the context and we need the rest of the story. It would be a good situation if that's all this bill was, is a technical amendment. At the moment there's a battle raging in Congress and it deals with the charges that the

big credit card processors are able to impose and the impact of those charges, not only on large and small businesses, but also on consumers and the cost of goods. There's a battle raging over transparency. Currently when you enter into an agreement to accept the credit or debit transactions, the merchants now are prohibited by terms of the agreement that we sign, from allowing any of these charges to appear on a transaction or for the customer to be made aware of any of them without the prohibition of law. There's a battle underway in Congress to deal with that very issue. This particular bill is appearing now very late in the session in eight states. It's appearing at the behest of VISA to be able to pass this prohibition in as many states as possible before Congress takes action so that they can essentially strengthen their argument. There's a lot going on here. There are issues related to market power, lack of competition, lack of transparency for the consumer, and the inability to see the impacts of these charges. To talk in terms of the debit cards in particular, currently if a consumer chooses to use their credit card, in general the fee that's charged to process that is a higher fee than many of these point cards that are used. If you present your debit card and use it as a credit card, then the fee is slightly less. If you present your debit card and use it as a true debit card with the PIN number, making the withdrawal from your account, that's the lowest fee. Merchants are prohibited from allowing any of that information to be presented to the consumer, that's per the contractual arrangement if you enter into these agreements. Passing a state law to prohibit it or extending the current law to the debit cards because they have now grown in use, simply strengthens the hand that VISA has as they battle this effort of trying to achieve greater transparency and to try to loosen the grip that they have on market power at the national level.

There is no emergency. There is no emergency that requires the State of Maine to take this action at the end of the session. Merchants are not charging fees now, even though it is allowed under law, for the reasons that I just expressed. There's an opportunity to continue to look at this issue and reconsider it in the next session after the federal government takes action, and do so in that context. No argument has been made that an emergency exists or that the consumer is at risk or at peril. It's doing two things. It's injecting Maine in the middle of this fight when there's no need for us to do that, and it's premature in terms of any kind of benefit for the consumer. It's difficult to understand the push when we're looking at the local impact. It's interesting also that last session the State of Maine exempted public entities, towns, counties and other quasi-public governmental units from the current prohibition on credit cards. The argument was that the fees are so heavy and so costly that town governments, for instance, were not willing to extend the benefit or the convenience of paying for fees and licenses, etc. with a credit card because they were not willing to sign these agreements to incur the fees, to keep them private, and to have them part of the public budget. We passed a law last session to exempt them so they can pass on the fees in the public sector. The law was so specific, rather than a broadly worded exemption for the public sector, it listed entities. In the supplemental budget that just passed through here a few minutes ago, the Appropriations Committee was presented with the public higher education institutions, the University of Maine, the Community College System and the Maine Maritime Academy, who came and said that they needed to be exempt from these because we have so many students who are paying their tuition with credit cards, and the University talked about the number of Canadian students. They said that they

couldn't possibly live with the terms of these agreements with the processors, or the charges they incur. They need to be able to pass this on and be able to show it on the bill for the purpose of transparency, if for no other reason. We just moved that through here a few minutes ago. The very argument that the public sector uses is precisely the argument that is eating up many of the small businesses in the private sector. Not that they want to pass on the fees, that's not the issue. I think pressures will prevent that from happening. It's at least the ability to make the consumer aware. To be able to say, for instance, 'You know I'd like to encourage you to use that debit card for a debit transaction rather than a credit card transaction because the fee is less.' We can't say that, or won't be able to say that. That's more of the background. There is no emergency and this could clearly be disposed of and dealt with in the next session. I encourage you to vote against the pending motion. Thank you.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I too share the concerns of the Senator from Hancock, Senator Rosen. As he pointed out, he has the pleasure, or the displeasure, of actually reading his statement each month at his store to see what the fees are that are being charged by the credit card industry. Yes we all use our credit cards and our debit cards, and it is convenient. But there is a substantial price for that convenience. Senator Rosen sees that, but the rest of us, the public, we don't. I think it's something that as a consumer we should know. Maybe it's worth it to us, but we don't know. We have no idea, I suspect. I had no idea what the transaction fee is to any merchant when I use my credit card or my debit card. The whole purpose of this bill, I still believe, is to keep the consumer in the dark and uneducated as to that cost. Madame President, if you would allow me, I would like to pose a question for anyone who might be able to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **HASTINGS:** Thank you, Madame President. While the bill before us prevents a merchant from charging or adding on the transaction fee to a consumer's bill at the register, would it prohibit a merchant from offering its customers a discount for cash? If you're willing to pay cash and I don't have to pay that 3% transaction fee, I'll happily cut 3% from the bill. That certainly would educate the consumer as to this transaction cost. Does this bill prohibit merchants in the State of Maine from offering a discount for cash for those who might actually have dollar bills in their pocket? Thank you, Madame President.

THE PRESIDENT: The Senator from Oxford, Senator Hastings poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Bowman.

Senator **BOWMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, the answer is that no it does not. I would also like to respond to the good Senator from Hancock in reference to recognizing costs of certain kinds of transactions. All this bill parenthetically asks is that costs associated with debit cards be handled just as costs of transactions associated with credit cards that are factored into the cost as shown on the item

that you pay when you check out. Secondly, you used as an example municipalities, and I think that's another issue, but I know my municipality would not offer its citizens that option if they were not able to do that. I believe, if my memory serves me correctly, neither would other municipalities.

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

Senator **BARTLETT:** Thank you, Madame President. Ladies and gentlemen of the Senate, I think it's important to keep in mind that this bill is aimed at a very simple premise. That is simply extending to debit cards the same protections that have been in place for the same dealing with them that have been in place for credit cards since 1981. In 1981 the Legislature looked at this and decided that transaction fees should not be passed on to consumers at the point-of-sale. It took us 29 years for the development of debit cards and for them to become so readily used that it was appropriate to extend that same level of protection. The difficulty, as I listen to the arguments against it, is that there are two competing and non-harmonious arguments that seem to be working at once. On the one hand, we don't need this bill because there are no merchants currently charging a transaction fee. On the other hand, we should not do this bill because merchants need to be able to charge that transaction fee and to pass it along. I'm trying to understand which it is. If the argument is that small businesses are hurting and can't afford to offer the use of credit and debit cards, then if we don't pass this bill we would expect them to start charging because they need to. All we're asking is that credit cards and debit cards be treated identically. The arguments that seem to be made against the debit cards would equally apply to credit cards. That has worked effectively since 1981 and I propose it should not be changed here.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, for those of you who have been observing over the past week while listening in, you might have incorrectly gotten the impression that the good Senate Chair from York, Senator Bowman and I must have been in constant opposition to each other. I assure you that that was not the case and it was a very enjoyable committee experience. By virtue of the order of the bills on our plate here, I am once again in opposition to the good Senate Chair. The title of this bill is simply 'An Act to Prohibit Surcharges on the Use of Debit Cards.' We heard repeatedly at the Committee level that no one assesses surcharges on credit cards and no one is attempting to assess surcharges on credit cards. In reference to the previous speaker, the banks and card issuers prevent, by virtue of the contract, retailers from adding on surcharges. There will be nobody running out to do this if we should not pass this bill. There is not a problem, there have been no problems brought forth to the Bureau of Insurance, this is just simply not necessary at this time. I urge you to oppose the current motion. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, make no mistake about it. This is a vote and an issue that pits Maine's small businesses against the credit card industry. It looks only at one side of the ledger. No discussion of what the credit card industry can charge mom and pop. It strikes me as extraordinarily unwise for Maine to go down this path which is part of a national strategy designed to protect the credit card industry at the expense of small businesses, many of which are just now struggling to hang on. I think that is the bottom line in terms of the vote that we are about to take.

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

Senator **PERRY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I followed this debate last week and again today with great interest because my good friend, the Senator from Hancock, Senator Rosen makes such a persuasive argument and has experience in the business. I find myself in full agreement with some of the comments he didn't make last week. That's what has me somewhat suspicious of this bill. If there was a bill that allowed these fees to be collected on credit card transactions, or prevented these types of prohibitions you spoke of in contracts, or allowed posting of fees or any kind of information that allows the customers to know what's going on, I'd be 100% in support of it. I just can't bring myself to vote for a bill that charges people to use their own money. Maybe this bill isn't necessary, but I just can't bring myself to vote for a bill that charges people to use their own money. As for the rest of it, if a bill comes forward, I'm with you. Thank you.

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

Senator **ROSEN:** Thank you, Madame President. Ladies and gentlemen of the Senate, it's not my intention to prolong the debate, but I just want to be very, very clear on one central point, because that's the danger of trying to discuss and debate a bill like this. I'm not aware of any merchants or anyone in the retail community that has any interest in starting to charge fees to the consumer. As you heard from the members of the Committee, no one came forward with any evidence that it's a problem now. Nobody is charging the fees now. I've heard from no one that is interested in charging the fee. This is all about the battle that is taking place nationally and the enormous market power that the two processing entities have when they negotiate these agreements with the local merchants. That battle is currently raging. If these states inject themselves and pass this extension and essentially weigh in on this fight, on the side of VISA, then their hand will be strengthened and the effort in Congress to try to improve this transparency will be weakened, and the imbalance that currently exists in these negotiations between merchants, the small ones, big ones, medium-size ones, then VISA will be advantaged. That's what this is all about. It is a bit confusing because I don't want people to get the wrong impression. Businesses are not lining up waiting to charge fees. It's allowable now for debit cards and they clearly have not done it, and I see no interest in doing so. This is all about a much bigger issue.

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

Senator **DAMON**: Thank you, Madame President. Ladies and gentlemen of the Senate, I could not have envisioned when we started debating this bill last week and as we have continued the discussion today that it was nearly this complicated. It seemed that on reading the bill, less than that, but that's why we have the debate to bring forth all of the concerns and the multi-facets of a particular issue. My colleague, the good Senator from Hancock has raised a couple of points that are of particular concern to me. One is that in fact the U.S. Congress debated a bill on credit cards. The last time I was aware of it, I believe it was in May of 2009. As a result of that bill we have guns in Acadia National Park. I'm wondering now if because we're having continued debates, what other weapons or explosives we might expect to come into the Park, and that's of concern to me. Thank you, Madame President.

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

Senator **SIMPSON**: Thank you, Madame President. Men and women of the Senate, I don't serve on this Committee and I wasn't planning on getting up. I think as I've been listening to the discussion and the debate, having previously paid those surcharges and negotiating with the credit card companies when I managed a restaurant, to bring down the price. Every now and again they just put the price up and you would have to switch who you were working with so that you could get a lower price and not lose quite so much money to the credit card industry. The thought of creating a situation where a consumer goes out to dinner and they really think about how much they're going to spend on their meal, if they can afford the drink and the tax and the tip, because they're trying to be safe by using their debit card, and after presenting the debit card, find out that the bill is more than they expected, I think this would be problematic. For that reason I'll be supporting the pending motion and I hope you'll join me.

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

Senator **TRAHAN**: Thank you, Madame President. Men and women of the Senate, I'd like to pose a couple of questions through the Chair.

THE PRESIDENT: The Senator may pose his questions.

Senator **TRAHAN**: Thank you, Madame President. I think if there's anyone watching us on video on their computer, they're probably as confused as I am. I'm trying to figure out exactly how to vote on this bill. Somebody please correct me if I'm wrong. The way I understand it credit cards currently charge fees. Debit cards are a new phenomenon and are just developing and if we pass this bill, they would not be allowed to charge surcharges. So I'm wondering, as more and more people use the debit cards to purchase things like coffee in the morning, and that type of thing, very small purchases, would then that transaction fee have to be absorbed by the small business?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN**: Thank you, Madame President. Ladies and gentlemen of the Senate, I think the gentleman is such a busy man that maybe he missed that nobody charges the customer. It's against the law in Maine for credit cards. This is just going to move it to the newer cards. Even though a battle may be going on in Washington or across the country, isn't it just more simple and reasonable that if we don't do it for credit cards, we don't do it for debit? There it is. It seems to me that's pretty simple, but so am I.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Bowman to Accept the Majority Ought to Pass 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 (#382)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-448) **READ**.

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

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, the amendment that I put before you would allow this bill to go forward in effect until February 15, 2011 at which point our law would revert to its present status. In the meantime it would ask that the Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection examine federal and state laws governing these fees and submit a report containing their findings, including any recommendations regarding courses of action to achieve optimum transparency and consumer protection back to the committee having jurisdiction over financial services. It also authorizes that committee to report out a bill to the 125th Legislature. I think the point of this amendment is to put into place the law that is being proposed and allow greater reflection for the committee and for our financial

services experts to report back to our next Legislature on whether it's wise to proceed down this course. It also has the added benefit of making it clear to these powerful economic entities that Maine's law is in flux and that we intend to study this matter, not only as to what's going on within our own state, but what's going on at the federal level that we should take cognizance of. I offer this amendment in the spirit of compromising the issue and to give us a chance to remain flexible in resolving this issue. For all those good reasons, I urge that you adopt Senate Amendment "A." Thank you.

Senator **BARTLETT** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-448).

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

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

Senator **BARTLETT:** Thank you, Madame President. Ladies and gentlemen of the Senate, just to respond to this emeritus amendment, I simply don't think that we need further study. I think there's no question that the federal laws are in flux. Retailers, in fact, are currently challenging the current federal rules that prohibit surcharges on debit cards in federal court. They're trying to get that overturned, and if they're successful, we can expect the surcharges to show up at retailers in the State of Maine and across the country. It seems only right that we have the same rules in place for ATM cards as are for credit cards. It's as simple as that and it doesn't need more study. We ought to make sure that we are protecting Maine consumers in the event that that federal rule is overturned. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bartlett to Indefinitely Postpone Senate Amendment "A" (S-448). 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 (#383)

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

NAYS: Senators: BLISS, COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, 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 **INDEFINITELY POSTPONE** Senate Amendment "A" (S-448), **PREVAILED**.

PASSED TO BE ENGROSSED, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (3/29/10) Assigned matter:

Emergency

Resolve, To Implement the Recommendations of the Juvenile Justice Task Force

H.P. 1204 L.D. 1703
(C "A" H-708)

Tabled - March 29, 2010, by Senator **BARTLETT** of Cumberland

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 25, 2010, on motion by Senator **GERZOFISKY** of Cumberland, **INSISTED** to **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-708)**.)

(In House, March 29, 2010, **FINALLY PASSED**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-708)**, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-498) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-708) AND SENATE AMENDMENT "A" (S-498), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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.

On motion by Senator **BARTLETT** of Cumberland,
RECESSED until 3:30 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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Universal Childhood Immunization Program"

H.P. 984 L.D. 1408

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-792)**.

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
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:

Representatives:

JOY of Crystal
LEWIN of Eliot

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-792)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-792) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TRANSPORTATION** on Bill "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" (EMERGENCY)

H.P. 1227 L.D. 1728

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-799)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-799)**.

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

READ ONCE.

Committee Amendment "A" (H-799) **READ** and **ADOPTED**, in concurrence.

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

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

ORDERS OF THE DAY

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

An Act To Implement the Recommendations of the Advisory Council on Health Systems Development Relating to Payment Reform

S.P. 735 L.D. 1819
(C "A" S-485)

Tabled - March 30, 2010, by Senator **BARTLETT** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, March 29, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-485).**)

(In House, March 29, 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.

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 **TRANSPORTATION** on Bill "An Act To Authorize a General Fund Bond Issue To Purchase and Upgrade Trackage of the Montreal, Maine and Atlantic Railway"

H.P. 1242 L.D. 1748

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-692).**

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot
GOOLEY of Franklin

Representatives:

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

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

Signed:

Representatives:

BROWNE of Vassalboro
THOMAS of Ripley
CEBRA of Naples

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

Reports **READ.**

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

ORDERS OF THE DAY

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

Mandate

An Act To Update the Laws Affecting the Maine Center for Disease Control and Prevention

H.P. 1130 L.D. 1592
(C "A" H-721)

Tabled - March 30, 2010, by Senator **RAYE** of Washington

Pending - **ENACTMENT**, in concurrence

(In Senate, March 24, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-721)**, in concurrence.)

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

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 28 Members of the Senate, with 4 Senators having voted in the negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and 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 Require Private Insurance Coverage for Certain Services for Children with Disabilities"

H.P. 313 L.D. 425
(C "A" H-663)

Tabled - March 29, 2010, by Senator **RAYE** of Washington

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence (Roll Call Ordered)

(In House, March 25, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-663).**)

(In Senate, March 29, 2010, **READ A SECOND TIME.**)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#384)

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

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

ABSENT: Senator: MILLS

EXCUSED: Senator: SULLIVAN

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Ordered sent forthwith to the Engrossing Division.

The Chair laid before the Senate the following Tabled and Later (3/25/10) Assigned matter:

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Clarify and Amend Laws Pertaining to Licenses Issued by the Department of Inland Fisheries and Wildlife"

S.P. 616 L.D. 1651

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-407)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-408)** (5 members)

Tabled - March 25, 2010, by Senator **BRYANT** of Oxford

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-407)** Report (Roll Call Ordered)

(In Senate, March 16, 2010, Reports **READ.**)

Senator **BRYANT** of Oxford moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I appreciate the good Senator making that motion. I think that was an honorable thing for you to do. I think it's the right thing to do. I want to let the Senate know that having talked to the Department, there were some things in the Minority Report that I believe the Department's going to already do. They don't need to be told to do that, so I don't really think we need to pass a law, but I appreciate the good Senator's motion. Thank you.

On motion by Senator **BRYANT** of Oxford, Bill and accompanying papers **INDEFINITELY POSTPONED.**

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

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

After Recess

Senate called to order by the President.

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

ENACTORS

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

Emergency Measure

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

H.P. 1183 L.D. 1671
(H "C" H-798 to C "A" H-790)

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

Senator **DIAMOND:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm pleased and proud to present to the Senate and to this Legislature L.D. 1671, which of course is the Governor's Supplemental Budget. You may remember back in January of 2009 when we all came to the Legislature we were told about the falling revenues and how things were not looking good. The first thing this Committee had to do was to pass a \$140 million supplemental budget of cuts and reductions. That was the first two weeks. We were then given the task that the biennial budget which started on July 1st of the following July, needed \$569 million cut from it. We got that passed. Then, just before we left last spring, we had to come up with another \$129 million. Through the summer we had the task of finding \$30 million more to fill a hole, which was a directive from the budget itself. Then on January 10th when we came back we found out that we were looking at a \$438 million hole in our budget. This brought us from a \$6.3 billion budget down to about \$5.5 billion when we finished. I remember Madame President saying to me in January, 'Bill, we need to have this budget done by mid-March with no new taxes or fees, I'd like it to be bipartisan if we could, and by the way, try to make it unanimous.' The good news is that those were our goals as well. The Committee's goals as we talked and struggled through these times were clear all the way through. Fortunately that \$438 million was reduced down to \$310 million because of unexpected revenues and some monies coming back from the feds. But it was still no easy task. Someone said we went from the impossible to the improbable. We all felt that heavy burden along the way. We thanked Governor Baldacci time and again for his support in being there behind the scenes with us, because we knew what we had to do. We knew we had some painful cuts and we needed to have the Administration there with us. This budget had severe cuts, painful cuts. We cut monies to K-12. We cut monies to higher education, health and human service programs, revenue sharing, and almost every state agency took cuts as well. In spite of these cuts we will continue to provide health care to the neediest Mainers in our state, schools will continue to provide quality education, Maine natural resources will be protected, and public safety will still be strong. By working with the Governor, especially the policy committees, and all of you, we made structural changes that will be ongoing. We eliminated some waste, and we reduced the size of government. We also did some other things that we really felt we had to do and we ended up being able to do. We made some restorations. We restored \$25 million to K-12 education. We restored \$500,000 to adult education. We restored \$8 million to higher education, and \$11 million to revenue sharing. We restored human service programs for children, \$1.3 million to the children's mental health services, and \$4.4 million to Medicaid programs for children dealing with

mental health. We've minimized cuts to senior citizens. We eliminated cuts to psychiatric hospital services. We made complete restoration of funding of home health services, hospice services and homemaker services. We restored full funding to the critical care hospitals and full funding to the MaineCare nursing homes. We eliminated the pushes, and we put back \$7 million into the Rainy Day Fund. We did this, ladies and gentlemen, with no new taxes and no new fees. That I think is a tribute to the Committee and to everybody who helped us. My co-chair, Representative Cain, worked tirelessly with skill and common sense well beyond her years. The good Senator from Androscoggin, Senator Craven, had an eye to watch every line in this budget, and it seemed like nothing got by without her approval. The Senator from Hancock, Senator Rosen, brought a level of sophistication, an academic approach mixed with well-placed humor. We were blessed with Representative Millet, who brought with him years and years of experience understanding this budget. The rest of the Appropriations and Financial Affairs Committee members were outstanding. Their dedication and tireless hours of 11 and 12 hour hearings and work sessions, never giving up. Governor Baldacci again receives our thanks for his support of always being there. Ryan Lowe and Ellen Schneiter, who were in our Committee every single day, every minute of the day. Grant Pennoyer and Maureen Dawson, who staffed us so brilliantly, and Diane Pruet who is unbelievable in being there, again never leaving the Committee room. We thank all those people. We had five consecutive budgets requiring painful cuts, and we found creative and bipartisan solutions. We could not have done this without the bipartisan approach, and being committed to that task. We are only here today being this successful because everyone had a say. Everyone who wanted to participated and everyone was heard. Without of that effort, we would not have had a budget that hopefully you all can vote for. This budget has somewhat part of our souls in it, each one of us who worked on it, and many of you. We really appreciate you giving of yourselves to make this happen. It's something that we didn't think necessarily we'd get to, this end result, but we did and we're proud of it. And, we're proud of all of you. Thanks to all who helped us, and I ask for your support that you might vote for this budget. Thank you very much.

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

Senator **ROSEN:** Thank you, Madame President. Ladies and gentlemen of the Senate, the line that you may be familiar with, 'Houston we have a problem' describes an event that took place when Apollo 13, on the mission to the moon, for those of you old enough to recall the real event, when they had an explosion of an external oxygen tank. The critical mission became trying to figure out a way back home. For those of you who don't recall the real life experience, the Ron Howard movie is a great depiction of that great line from Jim Lovell. That's the way this budget has felt this session. Holes being blown out of the state budget and our work to try and pull it back together. I think we have done so, considering the atmosphere that we are in with this economy and politically, both nationally and in the state, are offering you the best possible package under those circumstances. The impacts of this recession have been deep and they have been persistent. In the budget process the Republican caucus was very clear in the beginning in trying to clearly and effectively express certain fundamental principles that we were attempting to achieve. We

received tremendous help from both sides of the aisle from leadership teams and from the policy committees to achieve those goals. We were looking for maximum, on-going, and as much as possible, structural savings, trying as best we could to minimize one-time fixes. I think we were able to accomplish that in many areas. It's not pure, and there were certainly compromises that we accepted. But overall, I think we were able to achieve those goals. There are many structural changes built into this budget that will have an on-going impact, particularly in the Department of Health and Human Services and MaineCare arena. I know that the policy committee put in a tremendous amount of effort to help us move Medicaid to a managed care model, developing an entirely different payment model in the future biennial budget for the hospitals, looking at rate standardization, many major reforms that were built into both the biennial budget and the supplemental budget. We worked to protect life, critical services, and core functions. And yes, even from the Republican caucus, we were clearly concerned about many of those life-sustaining functions that are funded and provided through state government. And as you heard, we were able to balance within existing resources. We were happy to stand with the Chief Executive in supporting no broad-based tax increases in this approach. I know for many that was a difficult position to embrace, remembering particularly at the beginning of the session a former colleague of mine who had been on the Appropriations team a few years ago, Mr. Dudley, former chair of the Democratic party and joining our efforts in January as part of Engage Maine promoting revenue enhancements. We were dealing with a budget model that had received a rather dramatic infusion of what we feel is one-time federal monies scheduled to come to an end 15 months from now. To exercise that option in a weak economy when families were struggling and with the infusion of temporary federal money, we felt that we could not take that option away from the next Legislature and the next Chief Executive when they will be facing a substantial structural shortfall.

We heard an argument presented to us relating to the tax position we took in the budget from the Maine Municipal Association that has been repeated in many of the publications. 'All they did was shift the tax burden to the local property taxpayer' and that their claim to the Appropriations Committee members that 'no tax increase is a false claim.' I don't buy that argument. Local control is strongly held and defended in this state and we have locally elected school boards, selectmen, town councilmen, budget committees, and county commissioners, who have opportunities to cast votes on budgets. There is an entire process out there. If we can do a good job of informing, explaining and outlining the position that we took, then people in the community don't necessarily have to accept that there will be an automatic increase in their property taxes. They can engage and become involved in the difficult decisions that we were engaged in during this session. We had heard during these budget negotiations from our friends at the Maine Education Association, and if you will recall they're running a series of half-page and three-quarter-page ads in many of the major dailies in the state, talking about how we were walking away from our obligation to fully fund the 55% state share of K-12 education. Unfortunately that information was a little narrow and didn't really include a broad discussion of the \$1.4 billion over the 2009, 2010 and 2011 fiscal years that we were confronting at the state level and that there had been a good faith effort during the first two years of the ramp-up to achieve our share from that referendum.

As this impact rolls out to the community we would hope to see a more open minded and broader discussion from our friends at the leadership of the MEA. We patched the hole, we designed a good product, we brought this in for your approval today and we know that the next Chief Executive and the next Legislature will face major, major challenges. We hope we have built a foundation so they can address those challenges, including a major expected increase in the health and retiree pension costs in the next session, the disappearance of the stimulus money that is so critical in this budget for the next 15 months, and probably a more robust conversation around the role of government: local, state and federal. Those challenges will be part of the campaign season, I'm sure, as we look for a transition, and the burdens that will fall to the next team.

In closing, the good Senate Chair did a terrific job of outlining and identifying many of the people who were critical to the success of this product and I don't want to attempt to do that, but I want to recognize that there is a transition ahead of us. There were two individuals who are approaching a personal transition that I would just like to acknowledge them. One is the Governor's Commissioner, Ryan Lowe, as the current administration's team begins to wind down their work. As you heard, Ryan and Ellen were a team with us every step of the way. The only way the Appropriations Committee would have been able to succeed in this endeavor is to have a true and reliable partner representing the Chief Executive, and we found that in Commissioner Lowe. Otherwise this product would not have been possible. The second person now coming up to a transition moment is the good member from the other Body, Representative Millett who will be termed-out of the other Body. He has spent the last eight years as a member of the Appropriations team and who has, in my opinion, served as a true patriot to benefit all the citizens of the state, to do the best work possible, to try to see at the end that the public is served. I want to acknowledge the transition that he is about to embark on. Madame President, I hope that the members of the chamber find themselves in a position to be able to support the supplemental and ask for their vote. Thank you.

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

Senator **CRAVEN:** Thank you, Madame President. Men and women of the Senate, who thought that three months ago we'd be celebrating the process and the passage of this budget? State services funding were in dire straits, but our chairs and leads did a yeoman's job of keeping the Committee together and produced a budget that we can all be proud of. The funds we received from feds expansion and the revenue projections pulled us back from the brink, and that's where I felt we were. Unable to fund adequately our education system, our higher education, and certainly our health and human services that we need to keep our constituents safe. When this funding came in it motivated all of us to go forward and to try to do our very best to produce the best product that we could in this budget. While producing the best product we kept the safety net in place for our most vulnerable people and for our education system. This bipartisan budget was crafted by all the committees of jurisdiction, along with Appropriations and leadership. We thank the Administration and our staff who made sure that we had all of the tools we needed to have a wonderful outcome. I especially want to thank our chairs and leads for doing a wonderful job and steering us in the right

direction. I ask you all to please support us and vote in the affirmative for this budget. Thank you.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, first Madame President I want to thank you for, in your wisdom, having not put me on the Appropriations Committee. I rise today to celebrate the work of my good friend, the Senator from Cumberland and his committee, because of the time and attention you took paying attention to my committee and the other committees. I've been hanging around here awhile and I am not familiar with Appropriations Committees who really wanted to learn and wanted to listen to the work that the committees of jurisdiction do. I think every member of my committee, from both bodies and on both sides of the aisle, appreciated being asked the questions you asked us and we knew that the answers we gave were going to be listened to. That's quite amazing. I think you paid attention to us. I think you took that into consideration when you crafted the work that you crafted. I appreciate it greatly and I know that the members of my committee do, and I thank you for your work. Thank you, Madame President.

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

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#385)

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

NAYS: Senators: NASS, SMITH

ABSENT: Senator: MILLS

EXCUSED: Senator: SULLIVAN

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 2 Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (3/16/10) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Repeal the Fee Increase for Copies of Vital Records (EMERGENCY)
S.P. 613 L.D. 1648

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-409)** (5 members)

Tabled - March 16, 2010, by Senator **BRANNIGAN** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 16, 2010, Reports **READ**.)

Senator **BRANNIGAN** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Senator **RAYE:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in support of the motion. The substance of this legislation was incorporated in the budget we just passed, so I am pleased to vote with the Senator from Cumberland on this motion.

On motion by Senator **BRANNIGAN** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

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

Senator **NUTTING** of Androscoggin was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**
to Tuesday, March 31, 2010, at 10:00 in the morning.