

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

In Senate Chamber
Thursday
June 4, 2009

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

Prayer by Leslie Manning, Durham Friends Meeting.

MS. MANNING: Good morning, friends. Be Thou our vision, oh
God of our heart. Naught be all else to us save what Thou art.
Thou our best thought by day or by night, waking or sleeping, Thy
presence our light. Let us pray.

Creator and sustainer of the universe, loving and merciful
God, You teach us to exalt the humble and to humble the exalted;
to love one another and to do good to those who would harm us.
Temper our justice with Your mercy and our power with Your
wisdom. Let us remember that all of Your creation is sacred and
that all of Your children are holy and precious to You. Thank You
for the gift of serving Your people and seeking to do Your work in
the world. Help us to hold You in our hearts. Amen.

Reading of the Journal of Wednesday, June 3, 2009.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Establish a Farmer's Rights in an Investigation of
Intellectual Property Theft of Genetically Engineered Material"
H.P. 827 L.D. 1202
(S "A" S-290 to C "A" H-430)

In House, June 1, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-430).**

In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-430) AS
AMENDED BY SENATE AMENDMENT "A" (S-290)** thereto, in
NON-CONCURRENCE.

Comes from the House, Bill and accompanying papers
INDEFINITELY POSTPONED, in **NON-CONCURRENCE.**

On motion by Senator **NUTTING** of Androscoggin, the Senate
ADHERED.

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act To Establish the Maine Fuel Board"
H.P. 1007 L.D. 1455
(C "A" H-345; S "A" S-261)

In House, May 26, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-345).**

In Senate, May 28, 2009, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-345) AND
SENATE AMENDMENT "A" (S-261)**, in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-345) AND
SENATE AMENDMENT "A" (S-261) AS AMENDED BY HOUSE
AMENDMENT "A" (H-525)** thereto, in **NON-CONCURRENCE.**

Senator **SCHNEIDER** of Penobscot moved the Senate **RECEDE**
and **CONCUR.**

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

Senator **SCHNEIDER:** Thank you, Madame President. This
amendment simply adds in the public member back to the Fuel
Board. It's a good change and I am in full support of it. I hope
you will support this as well. Thank you, Madame President.

On motion by Senator **SCHNEIDER** of Penobscot, the Senate
RECEDED and **CONCURRED.**

Non-Concurrent Matter

Joint Order, To Recall L.D. 1390 from the Governor's Desk to the
House

H.P. 1039

In House, June 1, 2009, **READ** and **PASSED.**

In Senate, June 3, 2009, **READ** and **INDEFINITELY
POSTPONED**, in **NON-CONCURRENCE.**

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

On motion by Senator **GOODALL** of Sagadahoc, the Senate
ADHERED.

House Paper

Resolve, To Establish a Transition Adjustment for Fiscal Year
2009-10

H.P. 1041 L.D. 1486

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**
suggested and ordered printed.

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

READ ONCE, without reference to a Committee.

ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION.

Sponsored by Senator SIMPSON of Androscoggin. Cosponsored by Representatives: BEAULIEU of Auburn, BICKFORD of Auburn, BOLDUC of Auburn, VAN WIE of New Gloucester.

READ.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I'd like to welcome Ms. Allen and her students to the chamber today and to let her know how proud of her we all are. Maine and America's future and economic health depends on our ability to compete in science and math intensive areas such as computing, medicine and energy and other high tech fields. The number of young Americans entering these fields has been decreasing. This Academy, that she's going to be attending, was created to work with highly capable teachers, such as herself, in third to fifth grade range to give them the tools to motivate young students at an early age to pursue careers in math and science. Being chosen to attend is a great honor and we are lucky to have a teacher like Ms. Allen in our community and in our state. Thank you.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the gallery Ms. Allen and her students. We are all so appreciative of her.

COMMUNICATIONS

The Following Communication: H.C. 199

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

June 3, 2009

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

Dear Secretary O'Brien:

The House voted today to insist on its previous action whereby it accepted the Majority Ought Not to Pass Report of the Committee on Inland Fisheries and Wildlife on Bill "An Act To Provide Greater Access to ATVs by Lowering the Minimum Operating Age" (S.P. 104) (L.D. 340).

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Direct Fines Collected on Tribal Lands to the Passamaquoddy Tribe and the Penobscot Nation"

H.P. 545 L.D. 796

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-527).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527).**

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

READ ONCE.

Committee Amendment "A" (H-527) **READ** and **ADOPTED**, in concurrence.

ORDERS

Joint Order

Expressions of Legislative Sentiment recognizing:

S. Jill Allen, of Durham, a teacher at Walton Elementary School in Auburn, who is one of nearly 600 teachers in the nation invited to attend the 2009 Mickelson ExxonMobil Teacher Academy. Developed in conjunction with the National Science Teachers Association and Math Solutions Professional Development, the Mickelson ExxonMobil Teacher Academy is an annual math and science professional development program that enables teachers to hone science and math teaching skills, enhance curricula and discover innovative new ways to inspire students. We extend our congratulations and best wishes to Ms. Allen on her receiving this honor;

SLS 197

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

The Committee on **NATURAL RESOURCES** on Bill "An Act To Improve Landfill Capacity"

H.P. 519 L.D. 760

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-451)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-451) AS AMENDED BY HOUSE AMENDMENT "B" (H-520)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-451) **READ**.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-451), in **NON-CONCURRENCE**.

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Amend the Animal Welfare Laws"

H.P. 758 L.D. 1103

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-523)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523)**.

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

READ ONCE.

Committee Amendment "A" (H-523) **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 **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment"

H.P. 896 L.D. 1293

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-522)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522)**.

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

READ ONCE.

Committee Amendment "A" (H-522) **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 **TAXATION** on Bill "An Act To Require a Review of Certain Changes in the Application of the Sales and Use Tax Law"

H.P. 775 L.D. 1120

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-528)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-528)**.

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

READ ONCE.

Committee Amendment "A" (H-528) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Eliminate Penalties for Nonconforming School Administrative Units" (EMERGENCY)

H.P. 79 L.D. 95

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

Signed:

Senator:

ALFOND of Cumberland

Representatives:

SUTHERLAND of Chapman

FINCH of Fairfield

CASAVANT of Biddeford

WAGNER of Lewiston

LOVEJOY of Portland

NELSON of Falmouth

RANKIN of Hiram

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-126)**.

Signed:

Senator:

WESTON of Waldo

Representatives:

RICHARDSON of Carmel

JOHNSON of Greenville

Comes from the House with Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **ALFOND** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence.

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 Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I just wanted to say a few words about this bill before this vote. We have been engaged these last months in the process across the state of seeking to impose a flawed and unworkable law on parts of the state where it simply cannot work. We have seen district after district across the rural areas of this state vote against consolidation that they believe not to be in the best interest of their children and their communities. We are seeing through this punitive system of penalties a massive redistribution of education funding from the poorest, most struggling areas of this state to those areas where residents are able to make the consolidation work because it does make sense. It's indescribable the feelings of anger, alienation, and disappointment that I hear from people all across rural Maine that State government is going to do this. This is, I believe, the single greatest example of a law that has split this state into two Maines. I feel that everything we do here should be trying to bring our State together. In the same way that we have worked across party lines in this chamber to bring this chamber together on so many issues. Yet we have being imposed across this state something that cannot work in many areas of this state. Bad enough, then we're going to punish people because they can't make it work. We are going to take education dollars, crucial, precious education dollars, away from children in those poor and struggling areas simply because we have imposed rule on them that will not work for their communities. I hope that Senators from across the state will recognize the importance of making sure that things will work for the entire state. I saw a map on the cover of the Maine Municipal magazine. I carry it in my briefcase. We're not allowed to use props here or I would. That's a map of two Maines. That's a map showing where this law has worked because either areas were exempt and didn't have to make any changes, or they lived in areas with enough population density to

make it work. You look at that map and you see southern parts of the state and along the coast where it works fine. Then you see all the areas where people have rejected it because it won't work. It is a map of the two Maines. We shouldn't have a map when it comes to schools and education funding, a map of two Maines. We should have a map of one Maine and this is a way that we can begin that process and help to heal the division that is splitting this state in two. I implore you to vote against this motion and send the message to the people of Maine that we are one state. We will find a way to make this work for everybody and not shove it down the throats of people who know that it's not in the best interest of their children and not in the best interest of the future of their community. Thank you.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, this is a very clumsily formulated bill I was involved in monitoring the drafting of it two or three years ago when the Governor first proposed this rather clumsy effort at consolidation. There's a lot to be regretted about the methods that were employed to try to induce the consolidation of administrative services among disparate school districts across the state. It really doesn't have, in my view, much to do with the two Maines. It has to do with the fact that we've got the second smallest ratio of teachers to students in the United States, right along with Vermont. We have way too many teachers and way too few kids. We have the most horribly inefficient K-12 system that I can imagine. We have costs per pupil that are something like 10th or 11th in the United States. Yet we're one of the poorest states in the union. On top of that our teachers are not paid very well and they're not paid very well because we have so many teachers compared with too few kids. It's not just true of rural Maine. It's true of metropolitan Maine in many respects as well. Now I don't approve of how this all turned out. I thought we should have been using incentives for school districts to do the right thing and we should be trying to work with them more closely from the top. I think there should have been stronger guidance in how people came together for consolidation from the top. This bill, as bad as it was, was the policy that was formulated through a very painful process two years ago. To just throw it out at this juncture and start from scratch, I think is the wrong way to travel, frankly. This is not a very popular bill, not a popular law. Excuse me, the bill was popular, the law is not. I think we should stick to our guns and pursue the policy because we have a huge economic challenge in this State having to do with K-12 education. This may not be the best way to get our arms around it, but it is one way and we need to pursue it further.

Senate at Ease.

Senate called to order by the President.

The President requested the Sergeant-At-Arms escort the Senator from Cumberland, Senator **BARTLETT** to the rostrum where he assumed the duties as President Pro Tem.

The President retired from the Chamber.

ROLL CALL (#167)

The Senate called to order by President Pro Tem **PHILIP L. BARTLETT** of Cumberland County.

YEAS: Senators: ALFOND, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFSKY, GOODALL, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, MITCHELL, NUTTING, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT PRO TEM - PHILIP L. BARTLETT

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

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

Senator **SCHNEIDER:** Thank you, Mr. President. Men and women of the Senate, the reason I stand is that, like many of these bills that have been brought forward from the Education and Cultural Affairs Committee, I have a dilemma. I will probably be speaking on several of these bills to point out what my dilemma is. Unfortunately these bills have pitted communities against each other within my own Senate district. The reason I am supporting the pending motion is that many of my communities consolidated just because of the penalties. It would not be fair for me to change the rules. However, you will see that later on, when I have an opportunity to vote for the repeal up or down, you will see my vote on that. I just want to point out that this is a very difficult situation. I received a phone call from a superintendent I highly respect in my district this morning. It was very disappointing to me to have to tell him that I did need to vote for the pending motion to Indefinitely Postpone because I cannot change the rules until I can at least vote for the full repeal. So thank you very much for your time.

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence, **PREVAILED**.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the Laws Governing Consolidation of School Administrative Units" (EMERGENCY) H.P. 99 L.D. 115

Senator **ALFOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, you've heard colleagues speak this morning. I walked into the Education Committee knowing that many of these issues were still unresolved and I don't believe that we are going to resolve all of them this session either. However, this bill is a redundant bill. The reason I moved the Indefinite Postpone motion is that we're going to have another opportunity, in fact two opportunities today, to really vote on a repeal and also to vote on a one-year delay. So I urge you to support this motion and we will have, I'm sure, a longer discussion on the bills following. Thank you.

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

Signed:

Senators:
ALFOND of Cumberland
WESTON of Waldo

Representatives:
SUTHERLAND of Chapman
FINCH of Fairfield
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alfond to Indefinitely Postpone the Bill and all accompanying papers. A Roll Call has been ordered. Is the Senate ready for the question?

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-124)**.

The Doorkeepers secured the Chamber.

Signed:

Representative:
JOHNSON of Greenville

The Secretary opened the vote.

Comes from the House with Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

On motion by Senator **ALFOND** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for 2 Years"

H.P. 225 L.D. 285

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

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman
CASAVANT of Biddeford
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
WAGNER of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-352)**.

Signed:

Senator:

WESTON of Waldo

Representatives:

FINCH of Fairfield
JOHNSON of Greenville
McFADDEN of Dennysville
RICHARDSON of Carmel

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-352)**.

Reports **READ**.

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Mr. President. Men and women of the Senate, we've just taken a vote and had a bit of debate on penalties. This bill before you is different than the title that you see in your calendar. It says this delay is for two years. This delay is for one year and we try to coincide it with the vote that is coming up. I'm going to keep my remarks short. I can't help but liken this and hope that we will look at this bill in the way that we might if someone came into our home and robbed us and we came home from work and saw that someone had taken our valuables and we might think, 'Oh my goodness, I've been robbed. I hope they robbed my neighbor, too.' We could say, 'Oh my goodness, I better go and warn my neighbors so that they don't get robbed as well.' I think that's really what we have before us. It was contentious two years ago. It was contentious last year. It's contentious this year. Many of them made the decision not to consolidate because it did hurt them financially. They made a prudent decision based on dollars. Now we know we're going to have a repeal referendum, so what this bill asks for is to let's give this little reprieve until after this vote and then we'll see what lies ahead of us. I think it's fair and I think that I want to say to my neighbor let me warn you, let me help you, let me assist and not punish you because I made a decision one way and you're making it another. I ask that you be compassionate to your neighbor and join the other chamber who voted with over a two-thirds margin to give this delay for one year until after the vote in November. Be kind to your neighbor. Thank you.

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

Senator **SCHNEIDER:** Thank you, Mr. President. Men and women of the Senate, again I rise and I think that the reason why a lot of members in communities that ended up consolidating, and they are not as charitable, is that they feel they were pushed into making a decision based on the penalties. They feel that the fair thing to do is to move forward unless we have a full repeal. So far, when I've spoken with people in the community or received e-mails or communications from constituents, regardless of whether they consolidated or not, there seems to be a large momentum towards repeal. For this reason I again support the pending motion in hopes that we can move on to the more equitable way to deal with this situation across the board. So I hope you'll support the pending motion of Ought Not to Pass.

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

Senator **TRAHAN:** Thank you, Mr. President. Members of the Senate, I'd just like to rise a moment to tell you why I certainly support this bill and the one that will be coming before us. I have felt from the beginning that this policy was a flawed policy. I've never seen a relationship built where one entity says to the other; we're going to let you choose to do something, but if you don't choose the way we want you to, we'll penalize you for it. That's not the way that true partnerships work. True partnerships work through joint respect for each other, folks coming to the table negotiating their different positions, and then joining together on a resolution. I don't believe that consolidation has ever followed that road. I was here when it was negotiated. I saw how it was done. I saw what group did it. I feel that's not the way the process should work. I helped gather the signatures that brought

this to referendum in the Fall. I'm proud to say that I did that and I hope that we can have a resolution to this. Certainly delaying this for a year until that decision has been made by the public seems to be a responsible way to go. I ask you to defeat the motion, move Ought to Pass and let this kind of get behind us. Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I agree with the last two speakers and I'd add this piece. This is a question of how we manage things in this Legislature. If this had gone along with the SADs a few years, many years ago, it took eight or ten years to get from SAD 1 to SAD 100 or whatever it is. It's time to look at it. I voted against the budget two years ago because this piece was in here. I don't believe it's managed well and I'm not sure how well it's managed here. This is a little breathing space to allow people to work on, come together, and maybe see if we have one Maine or one kind of vision. I don't like the word vision. It's for our kids and it's about our kids we're messing with. Some of them running around the building today. What we did two years ago I also heard that we were going to fix it. Yes sir, man, we were going to fix it. We'll come back and fix it. We knew it had flaws. Did we fix it? I'm not sure. I know people went back in my district say, 'Oh we had to vote for the budget because that was in it and we'd shut the whole State down.' Great write up in the paper, we couldn't fix it. Here's a piece of fix, a little piece of it. I think with some honesty in the way we manage things, we're going to fix it, and maybe we ought to give some breathing space to do it. We can go into whether it's good or bad or indifferent. The history is, you gave the people of the State of Maine the SADs. Most individuals weren't born then, but it started back in the 1970s. We closed schools. We consolidated schools. It was with the management of local people. SAD 1 was Presque Isle, Maine. This one, SAD 1 in Presque Isle, Maine dug it's feet in. Derek Johnson said, 'When you guys figure it out, we'll talk to you.' I said, 'Good for you.' They've done some consolidation up there. SAD 20 is Houlton. It took us several years to get there. I taught in SAD 70. There was a fight over closing some schools then. They worked things out. You had incentives under busing. We knew kids were going to hop on buses. I remember one meeting we had where parents said, when the superintendents were trying to sell this, 'Gee, we can take care of them.' A lady said, 'Someone's going to go for a ride.' We may be going for a ride now, but all we're asking out of this is give it time to work. Keep your word that you gave the people of the State of Maine when you went back home and said in newspaper after newspaper, and I've got some of the clippings, that we'll fix this. This is your chance to keep your word and do it. I know one Legislature can't bind another, but one person's word, frankly, should be honored. You should honor your word, some of you that wrote that. We're going to fix it. I thank you.

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

Senator **NUTTING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise this morning to oppose the pending motion. I'm still struck by the Brookings Report that we received three years ago, or maybe it was four years ago. It

clearly said in the beginning of the Brookings Report that State government should make the cuts first, then ask the municipalities, and then ask the schools to become more efficient and make cuts. I don't think that has happened, at least not to my satisfaction. I am supporting the Minority Report to give a one-year ease on penalties until we see what happens this Fall in the vote. I think that's reasonable. I am frustrated that we still have a huge push for consolidation and a huge push for penalties coming from this State's Chief Executive while you look at the Chief Executive's own Executive budget that is now \$721,000 a year higher than what it's been for any other previous Chief Executive. To me, that is not setting an example to cut State government first, before we ask others to make cuts in their own budgets. So, I'm going to not be supporting this pending motion and urge others to do the same. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Marrassé.

Senator **MARRACHÉ:** Thank you, Mr. President. Men and women of the Senate, I too will be voting for the Minority Report. I'm not in favor of the current pending motion. Most of us consolidated. We even had a district that said, yes, and nobody wanted to be a friend with them. They didn't want to get together with them and they were going to be assessed a penalty, and thankfully we did address that. With the pending appeal coming up, with the massive cuts we've made in the budget, and the struggling economy I don't think it would be appropriate to assess these penalties if it might have the potential to be repealed in November. So I'm going to support the Minority Report, just to give people a chance, and if it does not get repealed, then they still have to assess that penalty and I think that's fair. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alfond to Accept the Majority Ought Not 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 (#168)

YEAS: Senators: ALFOND, BLISS, BOWMAN, COURTNEY, DAVIS, DIAMOND, HASTINGS, MCCORMICK, MILLS, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, MITCHELL, THE PRESIDENT PRO TEM - PHILIP L. BARTLETT

NAYS: Senators: BRANNIGAN, BRYANT, CRAVEN, DAMON, GERZOFKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, NASS, NUTTING, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, TRAHAN, WESTON

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-352) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the School District Consolidation Laws"

I.B. 4 L.D. 977

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

Signed:

Senator:

ALFOND of Cumberland

Representatives:

SUTHERLAND of Chapman

FINCH of Fairfield

CASAVANT of Biddeford

WAGNER of Lewiston

LOVEJOY of Portland

NELSON of Falmouth

RANKIN of Hiram

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-257)**.

Signed:

Senators:

SCHNEIDER of Penobscot

WESTON of Waldo

Representatives:

RICHARDSON of Carmel

McFADDEN of Dennysville

JOHNSON of Greenville

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

Reports **READ**.

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

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

Senator **SCHNEIDER:** Thank you, Mr. President. Men and women of the Senate, I hope you will defeat the pending motion. I have heard nothing but complaints about this law since we passed it. Unfortunately, because it was imbedded in the budget, it was a situation where we could not take a clear up and down vote. Now is our opportunity to show how we truly feel about this piece of legislation which we passed. I think that there are opportunities for consolidation. I know within my own district there have been many movements made to work to reduce costs and work collaboratively with various administrations and deal with costs within school units. So I hope to defeat the pending motion, and I hope you'll join me. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Mr. President. Men and women of the Senate, I had an opportunity to listen to the other Body debate this bill yesterday. I listened very intently in our committee. There was one argument that was used that I would like to explain. The argument that I heard most frequently was that people worked really hard to collect the signatures for the referendum to repeal school consolidation, so what they want is for us to say, no here in the Legislature, and let it go out. Well actually I don't think that's the case. They went out and got signatures and the question was to repeal. They want the Legislature to repeal. So, don't be afraid. Don't worry about they'll be upset. Say yes. This was a top down, paced far too quickly bill. If you remember when we passed this bill, when we had the fix it bill a year later, many members of this Body stood and said that this wasn't going to work, it has lots of problems, but we can fix it. The people have spoken. They signed the papers and they say we want something better. Let's speed them along that better path and reject this motion and vote to repeal. Thank you.

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

Senator **JACKSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I am going to be voting against the Majority on this and I'm going for the Minority Report. I think that, unfortunately, whenever we've had this issue, I think it kind of started with the 55% referendum. I was in the other Body then. I was one of a few that voted for the 55% for communities to get for education. I was under the impression that 55% going to the towns to go to education would relieve property taxpayers to some extent. I think at the time we were at 43%. If we were to ramp up to 55%, I'm not sure if we ever did get to 55%, but we certainly are below that now. The 12% should have gone back out to property taxpayers. I think the State did at least increase that. The people, at least in my areas, never really did see the property tax rebate from the municipalities. When this opportunity for consolidation came along, I did think there was some merit to

it. I did think that it could be done to some extent to save some money for the State and property taxpayers. I voted for it, knowing that it was a leap of faith, but I did support its intent. That Summer after we were able to get out and these RSUs started meeting, in the town I live in the town manager asked me to serve in that capacity. I made a lot of the meetings to begin with. It became clear to me that, at least in my area, it just wasn't going to work. The primers that were in the law were just too cumbersome to make a place like, at least my area and many others in the state, work. I thought maybe if there was an ability to lower the amount of students and have people consolidate it might work. What you were doing was taking the entire top rim of Aroostook County and saying that within 150 miles you have to consolidate. You took everybody into that mix and if just one said no then you were done. Where else are you going to go? To New Brunswick, which we have all kinds of issues with that. So it became clear to me that I made a mistake by supporting it. I still like the intent. It's become clear to me that one size fits all does not work, especially in a state like Maine, and that's what we have. I don't think my good seatmate is trying to rob me, or anything like that. I've been tormented about that. I think the state is big, diverse, and everything doesn't work in one nice little package. I think at times, sometimes leadership means that you made a mistake and you admit to it. I think that's what the Legislature did and that's why I'll be supporting the Ought to Pass Report.

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit the Delivery of Tobacco Products to Consumers To Prevent the Sale of Tobacco Products to Minors"

H.P. 850 L.D. 1230

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

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STRANG BURGESS of Cumberland
EVES of North Berwick

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-438)**.

Signed:

Representatives:

PETERSON of Rumford
JOY of Crystal
LEWIN of Eliot
STUCKEY of Portland

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

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-438)**.

Reports **READ**.

Senator **BRANNIGAN** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

Senator **PLOWMAN:** Thank you, Mr. President. Men and women of the Senate, there are two Ought to Passes on this bill coming out of Health and Human Services. Both of them seek to make it illegal to import through the mail, or any other delivery system, tobacco cigarettes. If we pass this we will become the eleventh state to do so. If we pass it in the form that's suggested we will be the third state to not include large cigars. There was an exemption in the Minority Report that says if you engage in the adult habit of smoking a cigar, we recognize that you are an adult and you should have access to the things that you enjoy. Young kids don't like cigars. They might think they do, but after they try it, they're going to be in the bushes heaving. They tend not to go back. You have to learn how to smoke a cigar. I've been taught. I enjoy a cigar, believe it or not. I'm an adult and I should be able to order them, have them delivered to me, get the one I want, know that it's fresh, and I should be able to do it if I live in Wallagrass or if I live in Kittery. I hear there's a swanky place in Wallagrass, that's why I bring it up. It's simple. Let's get in to what we really need, keeping tobacco products out of the hands of children. We can do it while allowing our adults to participate in a fully legal activity. It's time Maine joined the grownups. I don't think that by carving out this exemption that we're going to be stepping back in time. I think that the intent of the bill is still preserved while actually recognizing that adults can do legal things. Thank you.

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

Senator **PERRY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I was just sitting here thinking some of you might wonder what my thoughts were on this bill, so I thought

I'd stand up and share them with you. Most tobacco products are readily available anywhere you go in the State of Maine. Large cigars are a different issue. There's no reason why we shouldn't allow them for the import in the State of Maine. I'll be voting in opposition to this motion and let's let people get a hold of the cigars that they're looking for, they just aren't available here. Thank you.

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

Senator **BRANNIGAN:** Thank you, Mr. President. I certainly am glad to hear the thoughts of people from Bangor. I just want to make it clear that this does not prohibit any importation, it just regularizes it in a way we can be sure that this is going to adults and that taxes are being paid. So people can order cigarettes, cigars, have them imported, free the cigars, whatever you want to do, but it will come and it will just make it more protective. So I urge you to support the Majority Ought to Pass Report.

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

Senator **SHERMAN:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I too enjoy a good cigar. I would ask a question, if I may, through the Chair.

THE PRESIDENT PRO TEM: The Senator may pose his question.

Senator **SHERMAN:** Thank you, Mr. President. There's two types of cigars, one is air dried, the old fashion kind, some are propane dried. There are studies now that show if you have propane dried, when you dry them it produces carcinogens. So when I have mine, I try to have air dried so I wonder if we could do a prohibition on the ones that are dried with propane because the temperature is very high and does have some carcinogens in it. It might be a friendly amendment.

THE PRESIDENT PRO TEM: The Senator from Aroostook, Senator Sherman 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, Mr. President. A short time ago I had a conversation with my daughter, who just returned from out-of-state where she attends college, and she remarked on how many people there smoke and how different it was to come back to Maine. She commented on how many people she knows in Maine that smoke pot and that's not prevalent in Alabama. I said, 'What do you think the difference is?' She said, 'You don't have to be 18 to buy pot.' I just thought I'd share.

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Authorize the Administration of Epinephrine Autoinjectors and Asthma Inhalers in Emergencies"

H.P. 279 L.D. 372

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

Signed:

Senators:

BLISS of Cumberland
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick
BRYANT of Windham
DILL of Cape Elizabeth
CLEARY of Houlton
HILL of York
STEVENS of Bangor
KRUGER of Thomaston
NASS of Acton
BEAULIEU of Auburn
CROCKETT of Bethel

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

Signed:

Senator:

HOBBINS of York

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought Not To Pass** Report.)

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

Reports **READ**.

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

Senate

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Create a Saltwater Recreational Fishing Registry"
S.P. 516 L.D. 1432

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-294)**.

Signed:

Senator:

RECTOR of Knox

Representatives:

McKANE of Newcastle
KRUGER of Thomaston
MacDONALD of Boothbay
PRESCOTT of Topsham
WEAVER of York
PERCY of Phippsburg
EATON of Sullivan
TILTON of Harrington
ADAMS of Portland

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

Signed:

Senators:

DAMON of Hancock
SULLIVAN of York

Reports **READ**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Protect the Environment through Promoting the Use of Clean Fuel Vehicles"

S.P. 377 L.D. 1013

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

Signed:

Senators:

PERRY of Penobscot
BLISS of Cumberland

Representatives:

WATSON of Bath
BRYANT of Windham
FLEMINGS of Bar Harbor
CROCKETT of Augusta
PILON of Saco
CHASE of Wells
VALENTINO of Saco
KNIGHT of Livermore Falls
SIROIS of Turner

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-298)**.

Signed:

Senator:

NASS of York

Reports **READ**.

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

Sent down for concurrence.

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

ENACTORS

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

Constitutional Amendment

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

Comes From the House, **FAILED FINAL PASSAGE**.

On motion by Senator **CRAVEN** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by President Pro Tem **PHILIP L. BARTLETT** of Cumberland County.

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

ENACTORS

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

Emergency Measure

An Act To Provide for a Certificate of Birth Resulting in Stillbirth
S.P. 125 L.D. 361
(C "A" S-275)

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

Emergency Measure

An Act To Amend the Review and Approval Process of the Comprehensive Land Use Plan

H.P. 722 L.D. 1047
(C "A" H-468)

On motion by Senator **MARRACHÉ** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Measure

An Act To Create the Maine Online Learning Program

S.P. 531 L.D. 1446
(C "A" S-273)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 1 Senator 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Measure

An Act Regarding the Evaluation of Economic Development Programs

H.P. 1022 L.D. 1468
(C "A" H-502)

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

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Continuity of Care in the Child Development Services System

S.P. 188 L.D. 489
(C "A" S-232; H "A" H-487)

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

Emergency Resolve

Resolve, To Establish the Study Commission Regarding Teachers' Compensation

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

On motion by Senator **MARRACHÉ** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Emergency Resolve

Resolve, Directing the Department of Education and the Department of Agriculture, Food and Rural Resources To Convene a Work Group To Strengthen Farm-to-school Efforts in the State

H.P. 784 L.D. 1140
(C "A" H-461)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with 1 Senator 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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 131: The Maine Federal, State, and Local Accountability Standards, a Major Substantive Rule of the Department of Education

H.P. 817 L.D. 1178

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

Emergency Resolve

Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care

H.P. 864 L.D. 1245
(C "A" H-460)

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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

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

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

On motion by Senator **MARRACHÉ** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, 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:

Act

An Act To Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements

H.P. 876 L.D. 1257
(C "A" H-457)

On motion by Senator **MARRACHÉ** of Kennebec, placed on the **SPECIAL STUDY TABLE**, pending **ENACTMENT**, in concurrence.

Resolve

Resolve, To Promote Partnerships between the University of Maine System and the Maine Business Community

H.P. 991 L.D. 1415
(C "A" H-483)

On motion by Senator **CRAVEN** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, 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 Regarding Requirements for Approval of a Transmission Line

H.P. 39 L.D. 44
(C "A" H-369)

An Act To Amend Certain Laws Affecting Transportation

H.P. 110 L.D. 126
(C "A" H-477)

An Act To Increase the Number of Members of the Maine Land Use Regulation Commission Who Reside in the Commission's Jurisdiction

H.P. 361 L.D. 516
(C "A" H-387)

An Act To Amend the Statute of Limitations for Actions against the Estate of a Decedent

H.P. 420 L.D. 582
(C "A" H-458)

An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions

H.P. 457 L.D. 643
(C "A" H-459)

An Act To Create a Funding Structure for Sustainable Investment in Public Water and Wastewater Infrastructure in the State

H.P. 464 L.D. 650
(C "A" H-455)

An Act To Amend Certain Provisions of Fish and Wildlife Laws

S.P. 319 L.D. 811
(C "A" S-168)

An Act To Increase the Evidentiary Standard Required To Establish a Guardianship

H.P. 647 L.D. 944
(C "A" H-479)

An Act To Amend the Maine Condominium Act Regarding Escrow of Assessments

H.P. 663 L.D. 961
(C "A" H-418)

An Act To Increase Access to Farm Fresh Poultry
H.P. 709 L.D. 1034
(H "A" H-466 to C "A" H-427)

An Act Regarding Screening for Methicillin-resistant Staphylococcus Aureus

H.P. 713 L.D. 1038
(C "A" H-498)

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

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

ENACTORS

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

Acts

An Act to Establish the Community-based Renewable Energy Pilot Program

H.P. 742 L.D. 1075
(C "A" H-463)

An Act To Regulate Mixed Martial Arts Competitions, Exhibitions and Events

H.P. 751 L.D. 1089
(C "A" H-493)

An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland

S.P. 424 L.D. 1133
(C "A" S-274)

An Act To Improve Teacher Confidentiality Laws
S.P. 439 L.D. 1191
(C "A" S-267)

An Act To Allow Pharmacists To Administer Certain Immunizations

H.P. 843 L.D. 1223
(C "A" H-473)

An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System

S.P. 474 L.D. 1292
(C "A" S-285)

An Act To Require Interscholastic Athletic Organizations To Comply with the Public Proceedings Provisions of the Freedom of Access Laws for Certain Meetings

H.P. 909 L.D. 1306
(C "A" H-470)

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

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

An Act To Make Minor Substantive Changes to the Tax Laws
H.P. 980 L.D. 1401
(C "A" H-482)

An Act Regarding Asbestos Abatement Work

S.P. 518 L.D. 1434
(S "A" S-272 to C "A" S-159)

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

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

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

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

ENACTORS

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

Acts

An Act To Create the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies
S.P. 526 L.D. 1442
(C "A" S-265)

An Act To Protect Consumers and Small Business Owners from Rising Health Care Costs

S.P. 529 L.D. 1444
(C "A" S-219)

An Act Regarding the Central Voter Registration System
H.P. 1037 L.D. 1484
(H "A" H-486)

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

Resolves

Resolve, To Review Statutes, Rules and Policies Regarding Mental Retardation, Pervasive Developmental Disorders and Other Cognitive and Developmental Disorders

H.P. 468 L.D. 654

Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries

H.P. 597 L.D. 866

Resolve, To Encourage Alternative Compensation Models for Teachers and School Administrators

S.P. 458 L.D. 1277
(C "A" S-268)

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

Resolve, To Recognize Women Veterans in the State House Hall of Flags

H.P. 1023 L.D. 1470
(C "A" H-456)

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

Senator **SULLIVAN:** Thank you, Mr. President. Men and women of the Senate, this was a unanimous report out of the Legal and Vets Committee. I just want to go on record to make sure this is clearly understood. It says, Resolve, To Recognize Women Veterans in the State House Hall of Flags. When we're all done putting this and crafting it together, it was quickly added that we may run out of room in the Hall of Flags so we might have to put you someplace else. I want you to know the intent of this Committee was that the women's veterans memorial, the only one we have, will be in the Hall of Flags where all the other veteran things are. It was a unanimous decision, that was the name of the bill, and that's what we expect to happen, so I wanted that on the record. Thank you.

FINALLY PASSED and having been signed by the President Pro Tem 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

Ought to Pass

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Alter the Mechanism by which a Political Party is a Qualified Party"

H.P. 716 L.D. 1041

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report **READ**.

On motion by Senator **MARRACHÉ** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 397

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

June 3, 2009

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 302 An Act To Require Review by the Joint Standing Committee on Appropriations and Financial Affairs of Transfers of MaineCare Funds (EMERGENCY)

L.D. 629 An Act To Require That the 3 Branches of Government Be Listed Separately in Budget Documents and Budget Bills

L.D. 1136 An Act To Reduce Maine's Debt by Applying Year-end Departmental Balances to the Debt Service

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. G. William Diamond
Senate Chair

S/Rep. Emily Ann Cain
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (6/2/09) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Charter Schools in Maine"

S.P. 522 L.D. 1438

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (5 members)

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

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 2, 2009, Reports **READ**.)

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **WESTON** of Waldo, **TABLED** until Later in Today's Session, pending the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Chair laid before the Senate the following Tabled and Later (6/3/09) Assigned matter:

Emergency

An Act To Protect Maine Citizens and Franchised New Motor Vehicle Dealers

S.P. 483 L.D. 1337
(C "A" S-262)

Tabled - June 3, 2009, by Senator **SULLIVAN** of York

Pending - **ENACTMENT**, in concurrence

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

(In Senate, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-262)**.)

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

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Kennebec, Senator **MITCHELL** to the rostrum where she resumed her duties as President.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator **BARTLETT** to his seat on the floor.

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

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 2:30 in the afternoon.

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Resolve, To Reduce Funding to Maine Clean Election Act Candidates

S.P. 345 L.D. 923
(C "A" S-287)

In Senate, June 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-287)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-287) AS AMENDED BY HOUSE AMENDMENT "A" (H-533)** thereto, in **NON-CONCURRENCE**.

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

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

SECOND READERS

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

House

Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10

H.P. 1041 L.D. 1486

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

Off Record Remarks

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 Conform State Mortgage Laws with Federal Laws" (EMERGENCY)

S.P. 523 L.D. 1439
(S "D" S-289 to C "A" S-221)

In Senate, June 2, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221) AS AMENDED BY SENATE AMENDMENT "D" (S-289)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-221) AS AMENDED BY HOUSE AMENDMENT "A" (H-532)** thereto, in **NON-CONCURRENCE**.

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

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 Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies"

S.P. 491 L.D. 1356

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-301)**.

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

READ ONCE.

Committee Amendment "A" (S-301) **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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (6/3/09) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured"

H.P. 883 L.D. 1264

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-490)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-491)** (4 members)

Tabled - June 3, 2009, by Senator **BOWMAN** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence

(In House, June 2, 2009, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490).**)

(In Senate, June 3, 2009, Reports **READ**.)

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, during my campaign for election, the predominate issue that I heard by going to several thousand doors was healthcare. This has been echoed at the national level this past election and is now a national priority. Through the years DirigoChoice has attempted to address this need, I'll call it, for better or for worse. I have received numerous electronic correspondences asking that I support the Dirigo program, and I do. L.D. 1264 responds to this need in the short term. L.D. 1264 plainly and simply allows individuals, small businesses, and non-profits who currently rely on the DirigoChoice insurance product, or who want to sign up for this insurance option, to continue to have that choice. It is, in fact, a bridge between the past and the near-term future. The bill specifically protects current members and MaineCare parents. It provides for a consistent funding source that won't cost hospitals and the insured more than they are currently being charged under the current system, affectionately called savings offset payment. It gets rid of an accounting nightmare, the 27 month collection schedule that most of you have heard about, reduces administrative waste and lawyer's fees, and requires redesign of the Dirigo insurance product to promote affordability and higher quality. It eliminates the cap on enrollment starting in fiscal year 2011, continues to offer a quality product to small businesses, non-profits, and individuals based on an ability to pay. It positions Maine to partner with the federal government and accept federal funds as national healthcare reform moves forward, which it most certainly will. Many of the problems that we've experienced with the Dirigo program can be laid at the door of the funding mechanism and the payment schedule that we would never use in the business world, and which have pretty much guaranteed that the program would be contentious, inconsistently funded, and difficult to administer. Yet despite these handicaps facing the program from the start, DirigoChoice insurance product has benefited many people and more would like to purchase it. We need to remember that this is no give-away healthcare program. This is a program of cost sharing where people pay according to their means. Some enrollees and employers pay the whole freight while others get subsidized according to their income. It is a program that provides options to employers who want to do the right thing and offer health insurance to their employees. Since its inception it has saved the healthcare system millions of dollars in avoided costs, as its beneficiaries receive preventive care and see primary care doctors instead of going to hospitals or emergency care when their illness becomes a crisis. The bill converts the savings offset program, or payment program SOP, to a fixed monthly fee that will be paid by the same people who pay the SOP today. They will pay the same amount that the savings offset payment would have required them to do. The SOP has been contentious from the beginning and subject to court

challenges and on-going disagreements. This bill allows us to stabilize the program and protect those now on it and move forward, hopefully securing federal funds in the process. L.D. 1264 saves money by cutting administrative waste and by getting rid of the current expensive and burdensome funding mechanism which requires million dollar administrative hearings and expenditures every year, and encourages litigation and uncertainty. L.D. 1264 provides consistency of funding so that the funds available to run the program won't fluctuate from year to year, and so the insurance company administrator of DirigoChoice can plan ahead and make rational choices. L.D. 1264 gets rid of the nonsensical 27 month payment schedule that I alluded to earlier that has created a cash flow and other problems. While there have been valid reasons for adopting this schedule at the time, as was driven home during budget hearings this year and work sessions, this is no way to run a business. L.D. 1264 will collect funds over a logical 12 month period. The bill also charges the Dirigo board of trustees to redesign the program and to make it more affordable and able to reach more uninsured. The controversy surrounding the financing of this program has regrettably taken away from the considerable success that the program has achieved. While Dirigo began in 2003, the United HealthCare state ranking showed Maine nineteenth in covering the uninsured. In the most recent report Maine now ranks fifth. Since the beginning of the program's operation over 29,000 people have been served. About 5,800 of them are the result of the MaineCare expansion funded through the Dirigo program. The remaining are individuals and families whose incomes are below three times the poverty rate. The program's financing has been so challenged that most enrollment has been on hold for almost two years. Even so, 9,700 people are now enrolled in the DirigoChoice product offered by the non-profit Harvard Pilgrim HealthCare plan. Passage of L.D. 1264 would mean that by January 2011, which is a mere 18 months from now, the program will be able to be re-opened to enrollment with a new more affordable product which we hope will be congruent with and receiving federal funds in support. It will help build for the future and make the program, or the federal program, depending on what it looks like, more sustainable. Unless we pass this legislation, DirigoChoice product will remain capped in 2009 as it has been since September 2007 due to uncertainty in funding. According to the budget testimony earlier this year before the IFS Committee and Appropriations, currently the agency has a waiting list of 2,000 people who have expressed a desire to enroll. In the past few months the agency's call volume has increased significantly from citizens who have recently lost their employment and who are seeking options to maintain their health insurance coverage. DirigoChoice certainly is not the end all-be all in health insurance reform. It may well prove to be a bridge program as we move to a more comprehensive State and/or federal health care system. Nonetheless, it remains an important program that provides one more option in the insurance marketplace in this state which is relied upon by thousands of Mainers and their employers who want to purchase health insurance. I ask you to vote for L.D. 1264 so that this important piece of health care strategy can continue in a more rational cost-effective and sustainable manner, and provide health insurance to those thousands who depend upon it. Thank you.

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

Senator **McCORMICK**: Thank you, Madame President. Men and women of the Senate, I speak in opposition to the current motion. For those of you who have been around here for awhile in either Body or have simply followed the progress of the Dirigo program since 2003, I hope you can appreciate that both reports coming out of the committee begin with Ought to Pass as Amended. Much of what the good Senate Chair from York, Senator Bowman said is true and is contained in both versions of the committee reports. Our differences just simply surround the use of any undesignated federal funds that may come here as a result of stimulus money or health care reform, and that money that would be received by the Dirigo program, how that might be used. There are some requirements for what would be expected in the report-back that is due in January of 2010 under both reports. We simply specify more requirements on that report-back. The last thing we differ on is the source of the continued funding for the Dirigo program itself. These are not really significant in my mind, but important for us. I hope you've had a chance to review both committee reports. I hope you oppose the current motion and we move on to the Minority Report and we'll speak more about that later. Thank you, Madame President.

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

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, 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 Today Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured"

H.P. 883 L.D. 1264

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-490)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-491)** (4 members)

Tabled - June 4, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence (Roll Call Ordered)

(In House, June 2, 2009, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**.)

(In Senate, June 3, 2009, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#169)

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

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

ABSENT: Senator: SULLIVAN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-490) **READ**.

On motion by Senator **MILLS** of Somerset, Senate Amendment "B" (S-293) to Committee Amendment "A" (H-490) **READ**.

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

Senator **MILLS**: Thank you, Madame President. Men and women of the Senate, several years ago I voted for the Dirigo program in its entirety. The bill was worked through on a special committee basis. I wasn't on the committee but I followed its work closely. I thought it was good work. I still think that many of the elements of the Dirigo initiative have been a hallmark of success of this Administration, in the sense that he brought people together. The bill and its administrators have brought together people around the table in the hospital commission. They've brought together a public purchasers steering committee. They have a quality initiative through the Quality Forum, which I think is very fruitful. We have a cost driver committee that I have the pleasure of serving on. The insurance element of that large bill is the one that has generated the most controversy and is perhaps the one we should consider has offered us the greatest challenges. It was based originally on pre-assumptions that did not prove true. One of the assumptions was that we could sell a

product that would be subsidized by the public and that employers, small employers, would be prepared to step up and pay 60% of the premium, not only for their employees, but also for their dependants. It was quickly determined that such a product would not sell. The product, when it hit the streets, contained a very heavy public subsidy. It requires only a 60% contribution on the employee's premium and the public subsidy picks up on a sliding scale basis, whatever is required to cover the rest of the premium for the employee and the entire family. So it became an extraordinarily expensive product, much more so than we had anticipated. We naively thought that the private sector would be better prepared to step up and match a public subsidy to help low income people acquire coverage. That's one of the assumptions that failed. The second one was that we thought that the product would draw in Medicaid match dollars from Washington. We have not been able to do that, so all of the public subsidy, essentially all of the money that has been used to subsidize Dirigo has come from State taxation resources, notably about \$50 million that was given to us by the federal government way back to start, and now the savings offset payment. The third assumption that many of us made when the bill was passed was that there would be substantial savings in the medical market for bad debt and charity care, avoided costs of bad debt and charity care. Those costs have been analyzed by actuaries, at great expense I must say, over the years and we have found that the savings in bad debt and charity care amounts at best to a few million dollars a year -- hardly enough to sustain the \$40 or \$50 million in public subsidies that are apparently necessary to cover even eight or ten thousand or 12,000 people. The board has been asked to consider re-framing the product. Indeed the Majority Report that lies before you invites them to reconsider the shape and delineation of the product once again. I think it's time to do something a little bit more aggressive. If this Legislature is going to vote for a permanent tax of 2.14% on all paid claims throughout the medical industry in this state, if we're going to put a 2% sales tax on and burden the premiums of people who are struggling to pay their own health insurance, if we're going to ask that sacrifice from Maine people, it seems to me we have an obligation to direct the board to spread those subsidies as far and as wide as they can to make the few dollars that we have available go as far as they can in affording coverage to needy Maine families.

The amendment that lies before you directs the board to do several simple things that I think are long overdue for the Dirigo health program. Number one, it says by next year please write, or make available to people, a voucher system for health insurance so that more than one insurance carrier can have products that might qualify and fulfill the need for needy families, and give them a voucher that allows them to go out and get different products, perhaps different product lines from different companies. Be more flexible, more creative, in allowing people the economic wherewithal to enter the market. We do this, for goodness sakes, and have done for years with daycare assistance, for example. We issue vouchers for daycare and we don't direct what sort of product people have. We ask them to go to a decent daycare home. We look at families' incomes. We make a judgment about what the subsidy is that's necessary. It's a sliding scale system. The families go out and purchase their own daycare services. We do the same thing with Section 8 housing. We make certain judgments about the need of the family and then they go out and they use the money that is provided to go out and essentially voucher housing for

themselves. Indeed, why can't we do that with healthcare? There's a huge market out there for coverage. Why not simply put the State in the business of making judgments about the amount of the subsidy that is necessary for a given family to go out and acquire coverage, provide that subsidy to that family, and back away from the issue of the purchase. I think it's also a shame that we have been giving subsidized coverage, in many cases, to families without checking the assets that they have. I don't know how many people, because we don't collect the information. How many people have been able to get a public subsidy for health insurance living in a home that's worth hundreds of thousands of dollars? I've had complaints from insurance brokers who say, 'People will walk into my agency wanting to buy the Dirigo product and I know that they can buy and sell my agency.' What is right about that? Why shouldn't there be an asset test? I know that it's a little bit involved, but shouldn't there be one? I suggest in this amendment that we simply not give a subsidy if you have net assets greater than \$50,000. It wouldn't be complicated to administer it. Somebody would just have to sign a form or affidavit saying, 'Yes I do not have a net worth greater than \$50,000.' The third element of this amendment suggests that we make the subsidized product available only to those who have not had the benefit of insurance during the preceding six months. If we're going to open up enrollment again, as the Majority Report suggests we do next year, then for goodness sakes let's take, as a first priority, those folks who have been without insurance, outside of the insurance system. Impose a restriction that says that you have to have been without insurance for six months before you are eligible for this subsidized product. Then if later on we find that it's successful and we want to open it up further, then we can change these rules. For the time being, why should we be letting people drop their existing coverage and come into Dirigo health? The fourth element asks that we permit the insurance carriers who are participating to do a modest amount of medical underwriting only in this way. If you have a pre-existing condition, that there be a six month waiting period before that condition is covered by your new insurance. It simply avoids this notion, or idea, that somebody can wait until they need the insurance, until they have the adverse diagnosis, before they go and sign up for the insurance. The fifth element of this proposal says to the board to please look at the limited amount of revenue that we have available to subsidize these folks, and develop policies to offer more affordable products to these people to reduce the subsidies in order to cover more households at lesser cost. Let's focus the coverage that we are making available on preventive care and disease management instead of asset protection for those who are signing up for the program, and do what we can to use this program to reduce health care costs throughout the state.

That's the gist, the thrust of this. I think it is the least that we can ask of the Dirigo program given the scarcity of resources that we have available as a poor state. Look at the challenging experience that Massachusetts has been living through over the past several years. The idea that Dirigo health coverage is someday going to be the universal resource to cover all of the uninsured in Maine, the 130,000 to 140,000 of them that exist, is way, way beyond. Now we've proven through the Dirigo experience, perhaps we have proven to ourselves that it's an unaffordable goal. Massachusetts has proven it to us in spades. They're so much wealthier than we are and they're having such a struggle in doing it. I'm just suggesting that if we're going to have a permanent tax on health care, for goodness sakes, let's spread

the money far and wide and do as much good as we can with it in the form that's suggested by this motion. Thank you.

Senator **BOWMAN** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-293) to Committee Amendment "A" (H-490).

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

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

Senator **ROSEN:** Thank you, Madame President. Men and women of the Senate, I guess I would simply pose the question, why? Why reject this proposal? Why reject the elements in this amendment? I think they reflect a great deal of thought and I think they really do hit the target. As the Senator from Somerset, Senator Mills indicated, I was also a member of the Legislature and I voted for the Dirigo legislation. I agree with many of his comments, that there are elements that have survived from that reform effort that have been very valuable, the quality forums and the development of the State health plan, and many other initiatives. We have learned a lot from the insurance component. The idea of selecting just one plan and requiring those citizens that participate in the subsidy to only be able to purchase that one plan. Now that we have made the philosophical break from the funding model of the original initiative, which was based on savings, and have moved to just a straightforward assessment to fund a subsidy, it is a fair question. It is a major philosophical change and I think it would strengthen the program if we could move to some of the steps that the good Senator from Somerset has included in this amendment and I think it ought to be allowed to go forward.

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

Senator **BARTLETT:** Thank you, Madame President. Men and women of the Senate, I can respond to a couple of the concerns I have with this amendment for the record. First, item number two in the list of requirements would require an asset test, indicating that the board may not provide subsidies to any household with a net worth exceeding \$50,000. This would seem to be regardless of the size of the family. It doesn't indicate any exclusion for the home itself. Imagine a family of four living in a home. They've been slowly trying to pay their mortgage. They have net equity on an appraised value of \$50,000. Now we all know that they cannot simply sell their home and move into another one of a comparable size for any less price. So that wealth is locked within the home and they have no access to it. In addition, when you start talking about families of four or six, \$50,000 in combined assets is not much money, particularly when you factor in things like their cars and their home. You're leaving people extraordinarily vulnerable and I think that would render Dirigo meaningless. You'd essentially be cutting so many people out of eligibility that you're not helping the people you want to, and that's the working people struggling to pay for insurance. The second issue I have with the bill is the six month requirement that you go uninsured before your coverage. We're in a time of tremendous economic turmoil. People are being terminated from their jobs

every single day. To say that even if you've been terminated from your job, you have to wait six months. If you're six months struggling, trying to feed your family with no income, and you're going to have to wait those six months on health insurance, too. The fact that it's a blind straight requirement without exceptions, I think, poses extraordinary challenges, and again would prevent you from helping the very people that Dirigo is designed to assist.

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, in response to the esteemed colleague from Hancock, the amendment addresses several facets, some of which I find acceptable, some of which I do not. In your own words, which I really take to heart because they are absolutely true, they deserve more thought than the few moments that we have here to assess their impact.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'd just like to piggyback on the Senator from Cumberland's comments. That was the one thing that when I was listening to the Senator from Somerset's comments that concerned me. My area obviously has a lot of logging contractors. Despite a flyer you might have seen today, most of those contractors are independent contractors that don't have health insurance. Recently, for reasons that maybe many people know of, I've been in contact with many of them. One of the things that they continue to bring up was the Dirigo fund. It's striking to me anyway that many of them have Dirigo health insurance if they have any health insurance at all. That type of equipment, some of it \$300,000 piece of equipment that's a necessity to the job, after you've paid a year or two on a five or six year note, you have \$50,000 equity into it. You're still paying six, seven, eight, ten thousand dollar a month payments and you really don't have much of anything to show for it. The Dirigo program has been somewhat good for many of my constituents in the logging industry. That particular piece of that amendment would certainly wreak havoc with many of my constituents, so I'll be supporting Indefinite Postponement.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, the Committee amendment that this amendment seeks to modify or amend actually requires a report-back from the board of trustees of Dirigo health. Some of the requirements on the report-back are to develop more affordable products that can reach uninsured and underinsured residents. It requires them to determine the impact of an asset test on determining eligibility. It requires them to report-back on a voucher-based program to provide health insurance benefits, redesigning the DirigoChoice product or products. All of these are items to be reported-back to the committee in January of 2010. This amendment simply brings those ideas and changes forward for us at this time rather than waiting until next year for them to come forward. I am in support of the amendment as offered. Thank you, Madame President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Bowman to Indefinitely Postpone Senate Amendment "B" (S-293) to Committee Amendment "A" (H-490). 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 (#170)

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

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

ABSENT: Senator: SULLIVAN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BOWMAN** of York to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-293) to Committee Amendment "A" (H-490), **PREVAILED**.

Committee Amendment "A" (H-490) **ADOPTED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow Youth To Fish for Smelt on Worthley Pond" (EMERGENCY)
S.P. 347 L.D. 925
(C "A" S-157; S "A" S-250)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-157)** (4 members)

Tabled - May 29, 2009, by Senator **BRYANT** of Oxford

Pending - motion by Senator **TRAHAN** of Lincoln to **RECEDE** and **CONCUR**

(In Senate, May 28, 2009, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AND SENATE AMENDMENT "A" (S-250)**.)

(In House, May 29, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

On motion by Senator **TRAHAN** of Lincoln, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AND SENATE AMENDMENT "A" (S-250)**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-157)**.

On further motion by same Senator, Senate Amendment "A" (S-299) to Committee Amendment "A" (S-157) **READ**.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, for those folks who don't have the bill in front of them, there was an error in the bill that was inconsistent with State law around the age of kids that could smelt on this body of water. This amendment changes it from 17, to be more consistent, down to 16 and under on this body of water. I hope the Senate will adopt this amendment.

On motion by same Senator, Senate Amendment "A" (S-299) to Committee Amendment "A" (S-157) **ADOPTED**.

Committee Amendment "A" (S-157) as Amended by Senate Amendment "A" (S-299) thereto, **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AS AMENDED BY SENATE AMENDMENT "A" (S-299) thereto, AND SENATE AMENDMENT "A" (S-250), in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/1/09) Assigned matter:

Bill "An Act To Allow Smelt Fishing in Metallak Brook, Upper Richardson Lake" (EMERGENCY)
S.P. 348 L.D. 926
(C "A" S-158)

Tabled - June 1, 2009, by Senator **BRYANT** of Oxford

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-158)**(Roll Call Ordered)

(In Senate, June 1, 2009, **READ A SECOND TIME.**)

On motion by Senator **TRAHAN** of Lincoln, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-158).

On further motion by same Senator, Senate Amendment "B" (S-300) to Committee Amendment "A" (S-158) **READ.**

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, a brief description of this amendment. This bill was a little bit controversial in our committee and this is a compromise. It turns the bill into a Resolve directing the Department of Inland Fisheries and Wildlife to examine opportunities to open tributaries of a couple of lakes in Oxford County to smelting. I hope the Senate will adopt this amendment. Thank you.

On motion by same Senator, Senate Amendment "B" (S-300) to Committee Amendment "A" (S-158) **ADOPTED.**

Committee Amendment "A" (S-158) as Amended by Senate Amendment "B" (S-300) thereto, **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-158) AS AMENDED BY SENATE AMENDMENT "B" (S-300) thereto.

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 (6/3/09) Assigned matter:

HOUSE REPORT - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create a Duty To Report Serious Injuries"

H.P. 877 L.D. 1258

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-488)** (2 members)

Tabled - June 3, 2009, by Senator **COURTNEY** of York

Pending - motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Requested)

(In House, June 2, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, June 3, 2009, Reports **READ.**)

Senator **RAYE** of Washington requested and received leave of the Senate to withdraw his request for a Roll Call.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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

ORDERS

Joint Order

On motion by Senator **BRANNIGAN** of Cumberland, the following Joint Order:

S.P. 568

ORDERED, the House concurring, that the Joint Standing Committee on Health and Human Services shall report out, to the Senate, a bill regarding the electronic exchange of health information.

READ and **PASSED.**

Sent down for concurrence.

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

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the School District Consolidation Laws"

I.B. 4 L.D. 977

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-257)** (5 members)

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

Pending - motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, June 3, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 4, 2009, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#171)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DIAMOND, GERZOFSKY, GOODALL, HOBBS, MARRACHE, MILLS, PERRY, SIMPSON, SULLIVAN

NAYS: Senators: COURTNEY, DAMON, DAVIS, GOOLEY, HASTINGS, JACKSON, MCCORMICK, NASS, NUTTING, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SMITH, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-257) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Charter Schools in Maine"

S.P. 522 L.D. 1438

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (5 members)

Tabled - June 4, 2009, by Senator **WESTON** of Waldo

Pending - motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, June 2, 2009, Reports **READ**.)

On motion by Senator **WESTON** of Waldo, 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 Davis.

Senator **DAVIS:** Thank you, Madame President. The money follows the child, so there is no way that you can pass a charter school bill without it costing more money. If that's your desire, then so do so. This in some way reminds me of the famous musical of the 20th Century, 'Oklahoma.' In that story the farmers and the ranchers were having problems in Oklahoma and some old gentleman stepped forward and said he'd like to say a word for the farmers. Well, I'd like to say a word for the teachers. In the last 10 years, No Child Left Behind has been passed by the federal government and Learning Results has been passed by the State government. This is a bureaucratic dream and a teacher's nightmare. It's changed the way they teach. In my opinion, the advanced placement courses are good, that's for the accelerated kids. The special education courses are good. Those are for the kids who can't compete as well. The great middle of Maine children, high school kids, middle school kids, somehow gets lost in the shuffle there. I would end with that. I'm sure you don't want to listen to my advice, but America is somewhat like Rome and we seem to be losing our discipline. So what I think is needed in schools is the old stoic philosophers. Perhaps we could study Epictetus, Marcus Aurelius and Seneca. They were into a dialogue and they wanted to teach people how to think. They had a strong emphasis on athletics and discipline and I think that's what's needed in the public school system. Thank you.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I would urge you to reject the current motion and move on to pass this bill. When I moved this forward, it was for that great group of students that I encountered in my public school teaching days that the Senator from Cumberland just alluded to. We are doing a lot, we have done a lot, and we'll continue to do, I suspect, a lot for those top students, whether it's a gifted and talented program or advance placement programs. We also have done much for those students who are typically at the lower end of the spectrum as well, those with special needs and special education. It was that group in the middle, again that the Senator referred to, that I saw that I felt in many cases were being left out. If they happened to be good school citizens especially, they were left out, because they didn't cause any

problems. They didn't become a high visibility. They just kind of meandered through and were always in class and never challenged, it seemed like to me. So I had thought that perhaps another way of doing it, a way that was described to me as charter schools, would be a good thing. I still think that it is. So after my initial idea, my initial agreement to sponsor the bill, along comes a new administration. Along comes an emphasis. A renewed emphasis, on education and trying to do it another way other than a program, as an example, No Child Left Behind. So apparently there is money that can come to states that have charter schools. Again, that was not part of my motivation but it certainly becomes one of a consideration now that I have. I ask you to have that same consideration. I find out that Maine is one of but a few states that does not have charter schools. Our own education commissioner has had personal contact with, sought out, the Secretary of Education at the federal level and tried to determine if Maine would be in order, in line, for any of these additional monies that we could so much use in our education system. In her report to me just yesterday, she said that the Secretary of Education would be willing to discuss this matter with her, and in fact had invited her to come to Washington to make that case as to whether Maine should be able to have any of the money for alternative education. We presently do have some successful alternative education programs in our state. We have a magnet school we're all familiar with in Limestone and we have other alternative high schools scattered throughout the state. I don't know now, and our Commissioner wasn't able to assure me entirely, that our efforts to date are going to satisfy the federal guidelines of getting additional money into Maine. I hope that they do. I don't see, I really don't see any reason why we shouldn't continue to try to provide the educational opportunities for our students here in Maine that would allow them to flourish, prosper, and to move forward. If I had seen the difference, if I had seen an appreciable difference between the time that I left the public school service and now, as it pertains to that great group in the middle that I started out this oration about, I wouldn't have put the bill in. I don't see that difference. I see that as a continuation. It's not meant to be an undue or harsh criticism of our public education system or of our teachers. It is not meant for that. It is meant as an opportunity for us to try something that I hope will be successful. So I would urge you to vote against the pending motion and move on to the Minority Report. Thank you.

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, I think we all realize that education in the United States and in Maine is in crisis. We are no longer competitive with the rest of the world, especially in mathematics and science. Excellence in education requires, I call it a three-legged stool, it's students, it's families, and the schools. We here have significant influence on the schools. For Maine to not try to pilot, or try the charter concept, sends a signal that we don't want to innovate and I don't think we want to send that signal. Fortunately the climate for reform, especially at the national level, hasn't been this good in a long time. So, I would urge rejection of the current motion on the floor and strongly suggest that Maine try the charter school concept.

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

Senator **ALFOND:** Thank you, Madame President. Ladies and gentlemen of the Senate, I am here to speak on the motion to accept the pending motion. Listen, we want to be innovative, we want alternative schools, but we already have 100 of them in the state of Maine currently. We do this already. I believe charters are most successful in states that the public does not have confidence in their schools. Yes, we are falling behind the rest of the world in certain ways, but I don't believe Maine is screaming that our public schools are so poor, are so bad, that our teachers are not doing their jobs, that we need to start adding to a system that is already overreaching. I find it just fascinating that no one has mentioned that in 2011, just one and-a-half years from now, we're going to be losing \$68 million. Let me repeat that, \$68 million from K-12. So all of you that saw your supplemental budgets, you can double the losses to your communities. Now we're talking about a subject of adding more programs, more infrastructure? The City of Portland has already experienced this. We do have an alternative school, it is called Casco Bay. It was funded very graciously through the Gates Foundation. We had \$600,000 for three years. The city welcomed that money and we opened up Casco Bay High School. It's a terrific school. However, all of a sudden the great citizens of Portland were wondering to themselves, 'How are we going to pay for this after the third year?' They didn't know how. What are we going to do now that we've added three more classes in this structure that we put Casco Bay into that is no longer appropriate? All of these costs add up. We're going to be losing \$68 million in 2011. I believe the Majority Report looked at the big picture and said we cannot do this. As far as Secretary Duncan and what he is proposing with the \$4.3 million with the Race to the Top funds, I don't know how much good public policy is made when we start wondering what the federal government is going to do or not do, but I'm not willing to take that chance fiscally, at this point in time, and say we should do this because we might get some of this \$4.3 million. If that does indeed become the case, I believe this Body will look at the new facts and introduce something that recognizes these lost funds. Right now that is not the case and the federal government is dangling \$4.3 billion out there saying innovation. Well we already have innovation here in the state of Maine. We have over 100 schools that do this. I really encourage everyone to accept the Majority Report. It's time for us to put confidence back into the schools that we already have here. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, the Senator from Cumberland is right. If parents are happy with the schools in the geographic area where they live, then there won't be a charter school. These will only develop where there is a need and a desire. The legislation before you allows a pilot program to go forward for those who are willing to do the work to raise additional funds and those parents who are willing to bring their children. I will agree with another point from the Senator from Cumberland and that is we do have alternative programs. In fact, one of the biggest cheerleaders for charter schools that I've ever known is a teacher in one of those programs. She has done an incredible job over the years with students who don't fit very well into our regular high schools and she has been quite successful with many of them in this program.

What she has seen over the years is she needs greater flexibility. Things that she needs to do, wants to do, she's constrained not to do. Every budget cycle there's a debate about how much more money to put into this program because it is more costly per student than the regular program. So just saying we have alternative classrooms doesn't mean we are meeting the needs of those kids. Why not open this up? Why not let people go to work and try to open a charter school? This is one of the weakest pieces of legislation you'll see across the country. We have protected almost everyone. It's not going to be easy to do this, but if someone wants to, they are chartered and they are a success, we have gained. Earlier we heard that the money follows the student and that's true. Superintendents or principals cannot control when a student drops out. They lose that money the minute they drop out of school. They lose money when parents choose to move to a district where they have a choice, and that happens in Maine. My town of Palermo, I see new families moving there because they have choice of where their children go to high school. Let's try it. I honestly cannot see anything that is going to be harmful. Honestly, if you look at charter schools across the country, the most successful, those who can show the shining stars, are those that help the very students that we heard from two of the speakers previously. The very ones we know need more than they are getting.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, we have a mechanism in Maine, a very, very good mechanism for alternative learning and pathways, and that is our alternative schools and our magnet schools. We have one of the best schools, the Maine School of Science & Mathematics, in the entire United States, highly rated. We can use the Race to the Top funds, I believe. I'm hoping that the Secretary of Education at the federal level will see to it that the states that don't implement a charter mechanism but have alternative school mechanisms will be able to utilize those funds for their alternative schools. There's clearly no question in my mind that by passing this legislation, if we were to do that, that it would put undue pressure again with expanding infrastructure on our schools, which are very good and do a wonderful job. They will add pressure because the difficulty with just meeting the numbers of students in schools already to maintain their infrastructure. We are seeing an incredible decline in school population currently. I welcome innovation, and I would like to speak to an initiative that we recently passed, L.D. 1101, and to let my Senate colleagues know that we are very concerned, on the Education and Cultural Affairs Committee, about STEM, science, technology, engineering, and math. In fact, this Body recently passed unanimously the STEM work that we will be undertaking to look at how we can better integrate STEM education into our current K-12 educational programming. To start an additional program of charter schools when we are cutting everything under the sun, to encourage additional infrastructure when we are requiring at the moment school consolidation, I believe, is the absolutely incorrect way to go. We should be working within the infrastructure that we have currently. We should be producing, if we can, Race to the Tops funds for alternative education. I believe if we have that opportunity afforded to us by the federal government, there will be applications for additional alternative schools within our

infrastructure right now. Unfortunately, the federal government, in the past, has produced programs such as revenue sharing which have been started on the federal level, it is funding that we end up picking up, and they get out of the program. My concern is, here is an opportunity, yes, for some small amount of funds which ultimately we will later on down the line end up picking up the tab for, at a time when we are cutting funding significantly to K-12 education. It will certainly be, in my opinion, the rural schools which will end up picking up the tab for this and they will be impacted the most. I hope you will support the pending motion. Thank you very much.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I have risen to bring a little good news. Because one of our previous speakers said that our schools are in a crisis, an education crisis here in Maine. My son will be graduating from a public school on Saturday evening. Edward Little High School, my alma mater. I felt an obligation to say that things aren't as doom and gloom as a crisis. We do have problems here in the state of Maine with our education in terms of our teacher pay being lower than the New England and national average. Some of our schools need repairs. Certainly Edward Little High School has some very serious issues with its physical structure. The good news is that we are in one of the top ten states in the nation in our offering for advanced placement classes for high school students so they can get college credit and be encouraged to go to college. Our writing scores are among the best, sixth in the nation for fourth graders. Eighth graders at the top for the highest levels and the MEA progress increase over time. Our SAT scores are rising, most especially in mathematics, which is very important for our economy and the future. So I will be supporting the pending motion because our schools are good schools, and to take some of the money out of the public school to experiment for something different at a time when all of our municipalities are being strained to the edges, and to leave those students left in the public school without the resources of those parents who are involved, and of those students who might be able to do a little bit better, isn't good public policy. It's not good for our state. The longer we keep all of our students together, the better off they'll all be. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I have moved this upright position to support the Majority Ought Not to Pass Report. I wasn't going to speak, but when the good Senator from Androscoggin spoke, I thought I might want to lend a little bit to that and get up and say that regardless of what anyone in this Body or state thinks of me, anything that I've been able to achieve in my life is certainly looked back upon, and I know that it came from a lot of good people that helped me throughout my education and those being teachers. I think that our schools are in good shape. My son, and I say this again because of the good Senator from Androscoggin bringing it up that she mentioned her family. I've been chastised in the past not to use my children, but I just spoke with my son before we started the session. Today was class award day. He's a high school senior at Fort Kent High School.

He received a number of awards in social studies, civics. I've spent a lot of time with him and his classmates. I am so amazed at the things that are being taught today. He is so far ahead of anything I ever am today and he's, I think, 47th in his class of 100. He does very well, but he's nowhere near the top. That's not to really degrade him or anything. I feel it's a higher standard in our high schools today than when I went there. I think if we really want to do things, that people think that there's issues with our schools today, I think that if we did more to get rid of No Child Left Behind and whatever we've done with Learning Results and let teachers be creative again and not have to teach these standardized tests and things that just stifle creativity in the classroom, I think we would see an even bigger jump in kids learning. I think we're actually on a pretty good track right now and I don't see any reason to take away from what we have and try and come up with something else. I think we'd be better off to continue to work on what we have now. So, I support my seatmate.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Alfond to Accept the Majority Ought Not 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 (#172)

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

NAYS: Senators: BOWMAN, BRANNIGAN, COURTNEY, DAMON, GOOLEY, HASTINGS, MILLS, NASS, PLOWMAN, RECTOR, ROSEN, SMITH, WESTON

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator ALFOND of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report, PREVAILED.

Sent down for concurrence.

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

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment"
H.P. 803 L.D. 1164

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-534).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-534).**

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

READ ONCE.

Committee Amendment "A" (H-534) **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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects"

H.P. 879 L.D. 1260

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-535).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-535).**

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

READ ONCE.

Committee Amendment "A" (H-535) **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 **LABOR** on Bill "An Act To Ensure That Construction Workers Are Protected by Workers' Compensation Insurance"

H.P. 1008 L.D. 1456

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-536)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536)**.

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

READ ONCE.

Committee Amendment "A" (H-536) **READ** and **ADOPTED**, in concurrence.

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

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

COMMUNICATIONS

The Following Communication: H.C. 201

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

June 4, 2009

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

Dear Secretary O'Brien:

The House voted today to adhere to its previous action whereby it Indefinitely Postponed Bill "An Act To Establish a Farmer's Rights in an Investigation of Intellectual Property Theft of Genetically Engineered Material" (H.P. 827) (L.D. 1202) and accompanying papers.

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

Senator **SULLIVAN** of York 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.

Senator **BRYANT** of Oxford was granted unanimous consent to address the Senate off the Record.

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

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

Off Record Remarks

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Friday, June 5, 2009, at 9:00 in the morning.