

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

May 29, 2009

The Honorable Elizabeth H. Mitchell  
President of the Senate of Maine  
124th Maine Legislature  
State House  
Augusta, Maine 04333-0003

In Senate Chamber  
Monday  
June 1, 2009

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

Dear Madame President:

Prayer by Rabbi Emeritus Raymond Krinsky, Beth Israel  
Congregation in Waterville.

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule  
505 of the 124th Maine Legislature, the Joint Standing Committee  
on State and Local Government has had under consideration the  
nomination of Tracy B. Bigney of Bangor, for appointment to the  
State Civil Service Appeals Board.

**RABBI KRINSKY:** Oh Mighty God, we pray for Your blessing  
upon our Senators as they continue to promulgate the laws for  
our state. May they remain steadfast in their resolve to achieve  
fairness and justice for our citizens, even while they are caught up  
in the give and take of political realities. May they vigorously  
pursue the intent of their principles while recognizing that  
compromise can also be heroic. May their earnest commitment  
to their constituents enhance their concerns for the compelling  
needs of the larger community. Give them the strength to sail  
beyond the lands of familiar ideologies and the courage to explore  
the uncharted waters of novel ideas. Give them the vision of a  
greater day for the state of Maine and the will to bring to it their  
considerable talents for its realization. Give them the wisdom to  
deal compassionately as well as pragmatically with that great  
challenge to government, that is the responsibility to care for the  
governed. May we, who they represent, also contribute  
substantially to our civic sensibilities by becoming informed,  
concerned, and involved constituents. Amen.

After public hearing and discussion on this nomination, the  
Committee proceeded to vote on the motion to recommend to the  
Senate that this nomination be confirmed. The Committee Clerk  
called the roll with the following result:

|        |                 |   |  |
|--------|-----------------|---|--|
| YEAS   | Senators        | 2 | Simpson of Androscoggin,<br>Jackson of Aroostook   |
|        | Representatives | 6 | Beaudette of Biddeford,<br>Boland of Sanford, Browne of<br>Vassalboro, Cotta of China,<br>Harvell of Farmington, Schatz<br>of Blue Hill          |
| NAYS   |                 | 0 |  |
| ABSENT |                 | 5 | Rep. Clark of Easton, Sen.<br>Courtney of York, Rep.<br>Hayes of Buckfield, Rep.<br>Kaenrath of South Portland,<br>Rep. Willette of Presque Isle |

Pledge of Allegiance led by Senator Justin L. Alford of  
Cumberland County.

Eight members of the Committee having voted in the affirmative  
and none in the negative, it was the vote of the Committee that  
the nomination of Tracy B. Bigney of Bangor, for appointment to  
the State Civil Service Appeals Board be confirmed.

Reading of the Journal of Friday, May 29, 2009.

Signed,

Doctor of the day, Dr. James V. Pisini, DO of Cumberland.

S/Deborah L. Simpson  
Senate Chair

S/Stephen R. Beaudette  
House Chair

Off Record Remarks

**READ and ORDERED PLACED ON FILE.**

**COMMUNICATIONS**

The Following Communication: S.C. 382

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine"

H.P. 491 L.D. 708

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-386)**.

Signed:

Senators:

NUTTING of Androscoggin  
SHERMAN of Aroostook

Representatives:

PIEH of Bremen  
SMITH of Monmouth  
PERCY of Phippsburg  
KENT of Woolwich  
McCABE of Skowhegan  
PRATT of Eddington  
CRAY of Palmyra  
O'BRIEN of Lincolnville

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

Signed:

Senator:

BRYANT of Oxford

Representatives:

EDGECOMB of Caribou  
GIFFORD of Lincoln

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386)**.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-386) **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 **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Create Regulatory Exemptions for Poultry"

H.P. 709 L.D. 1034

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-427)**.

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

PIEH of Bremen  
PERCY of Phippsburg  
McCABE of Skowhegan  
PRATT of Eddington  
KENT of Woolwich  
O'BRIEN of Lincolnville  
EDGECOMB of Caribou  
GIFFORD of Lincoln  
CRAY of Palmyra

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

Signed:

Senator:

NUTTING of Androscoggin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427) AS AMENDED BY HOUSE AMENDMENT "A" (H-466)** thereto.

Reports **READ**.

On motion by Senator **NUTTING** of Androscoggin, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles while Intoxicated"

H.P. 495 L.D. 712

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-363)**.

Signed:

Senators:

NUTTING of Androscoggin  
DAVIS of Cumberland

Representatives:

LAJOIE of Lewiston  
GREELEY of Levant  
SCHATZ of Blue Hill  
BURNS of Whiting  
MAGNAN of Stockton Springs  
SYKES of Harrison

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

HASKELL of Portland  
HANLEY of Gardiner  
PLUMMER of Windham  
WHEELER of Kittery

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-363)**.

Reports **READ**.

Senator **GERZOFISKY** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-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.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **GERZOFISKY** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Base the Value of Eminent Domain Takings on Going Concern Value"

H.P. 832 L.D. 1207

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-361)**.

Signed:

Senators:

HOBBS of York  
HASTINGS of Oxford

Representatives:

DILL of Cape Elizabeth  
HILL of York  
NASS of Acton  
BEAULIEU of Auburn  
CROCKETT of Bethel

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

Signed:

Senator:

BLISS of Cumberland

Representatives:

PRIEST of Brunswick  
BRYANT of Windham  
CLEARY of Houlton  
KRUGER of Thomaston  
STEVENS of Bangor

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361)**.

Reports **READ**.

Senator **BLISS** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-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.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

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**Divided Report**

The Majority of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow for a Dual Liquor License"

H.P. 681 L.D. 989

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-425)**.

Signed:

Senator:  
SULLIVAN of York

Representatives:  
BEAULIEU of Auburn  
CORNELL du HOUX of Brunswick  
PINKHAM of Lexington Township  
VALENTINO of Saco  
TRINWARD of Waterville  
TUTTLE of Sanford  
FITTS of Pittsfield  
CAREY of Lewiston  
RUSSELL of Portland  
NASS of Acton

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

Signed:

Senators:  
GOODALL of Sagadahoc  
PLOWMAN of Penobscot

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-425)**.

Reports **READ**.

Senator **SULLIVAN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature  
H.P. 123 L.D. 144

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

Signed:

Senators:  
SIMPSON of Androscoggin  
JACKSON of Aroostook  
COURTNEY of York

Representatives:

BOLAND of Sanford  
BEAUDETTE of Biddeford  
COTTA of China  
CLARK of Easton  
KAENRATH of South Portland  
SCHATZ of Blue Hill

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-135)**.

Signed:

Representatives:  
BROWNE of Vassalboro  
WILLETTE of Presque Isle  
HAYES of Buckfield  
HARVELL of Farmington

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY HOUSE AMENDMENT "A" (H-252)** thereto.

Reports **READ**.

Senator **SIMPSON** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** 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.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Ordered)

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**Divided Report**

The Majority of the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Protect the Right To Use Solar Energy"  
H.P. 62 L.D. 73

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-370)**.

Signed:

Senator:  
HOBBINS of York

Representatives:

BLANCHARD of Old Town  
FLAHERTY of Scarborough  
HINCK of Portland  
ADAMS of Portland  
WAGNER of Lyman  
VAN WIE of New Gloucester

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-371)**.

Signed:

Senators:

BOWMAN of York  
SHERMAN of Aroostook

Representatives:

THIBODEAU of Winterport  
DOSTIE of Sabattus  
FLETCHER of Winslow  
FITTS of Pittsfield

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-370)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-370)**.

Reports **READ**.

On motion by Senator **HOBBS** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-370)** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-370) **READ** and **ADOPTED**, in concurrence.

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

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**Senate**

**Ought to Pass As Amended**

Senator BRANNIGAN for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require a Birth Certificate for a Stillborn Child"

S.P. 125 L.D. 361

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-275)**.

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

**READ ONCE**.

Committee Amendment "A" (S-275) **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.

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

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**SECOND READERS**

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

**House**

Bill "An Act To Require State-owned Solid Waste Disposal Facilities To Demonstrate a Public Benefit"

H.P. 518 L.D. 759

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

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**House As Amended**

Bill "An Act To Raise the Property Tax Exemption for Veterans"

H.P. 60 L.D. 71  
(C "A" H-424)

Bill "An Act To Expand Access to Oral Health Care"

H.P. 188 L.D. 234  
(C "A" H-433)

Bill "An Act To Modify the Citizen Initiative Process"

H.P. 189 L.D. 235  
(C "A" H-435)

Bill "An Act To Reimburse Debra Bilodeau for Her Expenses Incurred in Connection with Her Petition for Appointment as a Foster Parent"

H.P. 275 L.D. 368  
(C "A" H-347)

Bill "An Act To Amend the Laws Concerning Licensure Qualifications of Independent Practice Dental Hygienists"

H.P. 309 L.D. 421  
(C "A" H-326)

Bill "An Act To Establish a State-controlled Casino"

H.P. 378 L.D. 533  
(C "A" H-391)

Bill "An Act To Enhance Fund-raising Opportunities by Certain Nonprofit and Fraternal Organizations"  
H.P. 567 L.D. 831  
(H "A" H-450 to C "A" H-389)

Bill "An Act Relating to Industrial Hemp"  
H.P. 798 L.D. 1159  
(C "A" H-356)

Bill "An Act To Amend Certain Laws Related to the Department of Agriculture, Food and Rural Resources"  
H.P. 874 L.D. 1255  
(H "A" H-454 to C "A" H-440)

Resolve, To Establish the Blue Ribbon Commission To Examine the Legal and Policy Implications of Groundwater Extraction (EMERGENCY)

H.P. 913 L.D. 1310  
(C "A" H-434)

Bill "An Act To Amend Provisions of the Submerged Lands Law"  
H.P. 926 L.D. 1322  
(C "A" H-428)

Bill "An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates"  
H.P. 970 L.D. 1380  
(C "A" H-429)

Bill "An Act To Transfer the Seed Potato Board to the Maine Potato Board"  
H.P. 982 L.D. 1406  
(C "A" H-441)

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Increase of Seed Money to \$150,000, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (EMERGENCY)  
H.P. 1014 L.D. 1462  
(C "A" H-445)

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

Bill "An Act To Repeal the Requirement That Alien Big Game Hunters Be Accompanied by Guides Licensed by the State"  
H.P. 199 L.D. 253  
(C "A" H-396)

**READ A SECOND TIME.**

On motion by Senator **JACKSON** of Aroostook, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Increase Consumer Choice for Wine"  
H.P. 696 L.D. 1008  
(C "A" H-366)

**READ A SECOND TIME.**

On motion by Senator **SCHNEIDER** of Penobscot, 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 **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence. (Roll Call Ordered)

Bill "An Act Regarding the Operation of County Jails and the State Board of Corrections"  
H.P. 844 L.D. 1224  
(C "A" H-439)

**READ A SECOND TIME.**

On motion by Senator **MILLS** of Somerset, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Bill "An Act To Require That a Majority of the Members of the Maine Land Use Regulation Commission Reside in the Commission's Jurisdiction"  
H.P. 361 L.D. 516  
(C "A" H-387)

**READ A SECOND TIME.**

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Bill "An Act To Provide for 2 Veteran Service Officer Positions"  
H.P. 570 L.D. 834  
(C "A" H-444)

**READ A SECOND TIME.**

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

**Senate As Amended**

Bill "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)

Senate called to order by the President.

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

Off Record Remarks

Bill "An Act To Encourage Alternative Compensation Models for  
Teachers and School Administrators"  
S.P. 458 L.D. 1277  
(C "A" S-268)

**ORDERS OF THE DAY**

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

**Unfinished Business**

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

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.

Bill "An Act To Create the Maine Online Learning Program"  
(EMERGENCY)

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

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

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill  
"An Act To Establish Municipal Cost Components for  
Unorganized Territory Services To Be Rendered in Fiscal Year  
2009-10" (EMERGENCY)

Sent down for concurrence.

H.P. 855 L.D. 1235

Bill "An Act To Allow Smelt Fishing in Metallak Brook, Upper  
Richardson Lake" (EMERGENCY)

S.P. 348 L.D. 926  
(C "A" S-158)

Majority - **Ought to Pass as Amended by Committee  
Amendment "A" (H-422)** (12 members)

Minority - **Ought Not to Pass** (1 member)

**READ A SECOND TIME.**

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.

Tabled - May 29, 2009, by Senator **DAMON** of Hancock

Pending - motion by Senator **BLISS** of Cumberland to **ACCEPT**  
the Majority **OUGHT TO PASS AS AMENDED** Report, in  
concurrence (Roll Call Ordered)

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

(In House, May 28, 2009, the Majority **OUGHT TO PASS AS  
AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED  
TO BE ENGROSSED AS AMENDED BY COMMITTEE  
AMENDMENT "A" (H-422) AS AMENDED BY HOUSE  
AMENDMENT "A" (H-453)** thereto.)

Bill "An Act Regarding Asbestos Abatement Work"

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

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

Senator **GOOLEY** of Franklin, under unanimous consent,  
requested and received leave of the Senate to withdraw his  
request for a Roll Call.

**READ A SECOND TIME.**

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.

Senate at Ease.

Senate called to order by the President.

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

Senate at Ease.

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

**READ ONCE.**

Committee Amendment "A" (H-422) **READ**.

House Amendment "A" (H-453) to Committee Amendment "A" (H-422) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-422) as Amended by House Amendment "A" (H-453) thereto, **ADOPTED**, in concurrence.

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

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

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Suspend the Cost-of-living Adjustment for Legislators' Salaries for the Second Regular Session of the 124th Legislature"

S.P. 167 L.D. 464

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-255)** (8 members)

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

Tabled - May 29, 2009, by Senator **SIMPSON** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

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

Senator **SIMPSON** of Androscoggin moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Senator **RAYE:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just wanted to briefly explain that this bill has been taken up in the budget so it is now unnecessary.

On motion by Senator **SIMPSON** of Androscoggin, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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

SENATE REPORT - from the Committee on **JUDICIARY** on Bill "An Act To Consolidate and Modernize Maine's Courts" S.P. 330 L.D. 882

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-154)**

Tabled - May 29, 2009, by Senator **BARTLETT** of Cumberland

Pending - **ACCEPTANCE OF REPORT** (Roll Call Ordered)

(In Senate, May 13, 2009, Report **READ**.)

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

Senator **BLISS:** Thank you, Madame President. I have learned a great deal about the court system since you, in your wisdom, made me Chair of the Judiciary Committee. I've learned, for example, that we don't have enough judges. I've learned that we are desperately short of clerks who are grossly overworked and underappreciated. I've also learned that our courthouses are extremely deficient. Some are crumbling, some are too small, and some are falling apart even as the judges try to conduct the affairs of the State. I am delighted that we have an opportunity in this year's biennial budget to do some substantial work on courthouses in three of our counties that most desperately need those repairs. Because of that, and because the budget has passed, I move Indefinite Postponement of this bill and all its accompanying papers.

On motion by same Senator, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

NOMINATION - of Tracy B. Bigney of Bangor for appointment to the State Civil Service Appeals Board

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

Pending - **CONSIDERATION**

(In Senate, June 1, 2009, Communication (S.C. 382) from the Committee on **STATE AND LOCAL GOVERNMENT**, **READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **STATE AND LOCAL GOVERNMENT** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 124<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#129)**

YEAS: Senators: None

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Tracy B. Bigney** of Bangor for appointment to the State Civil Service Appeals Board was **CONFIRMED**.

The Secretary has so informed the Speaker of the House of Representatives.

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Suspend Driver's Licenses of Persons Operating All-terrain Vehicles, Watercraft and Snowmobiles while Intoxicated"  
H.P. 495 L.D. 712

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-363)** (8 members)

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

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **GERZOFISKY** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, May 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-363)**.)

(In Senate, June 1, 2009, Reports **READ**.)

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise to speak in opposition to the pending motion and urge you to go on and support the Majority

Ought to Pass Report. This bill was brought to the Criminal Justice Committee and had a lengthy public hearing and a couple of thorough work sessions. This bill was brought to them by the Department of Inland Fisheries and Wildlife and the Secretary of State's Office. Both worked very hard and totally redrafted the bill, changing the original bill to the amendment that the majority of the Committee supported. The testimony from the Maine Warden's Service I found to be very compelling. The sad but very strong connection between those that have OUIs with driving vehicles and those who have OUIs driving snowmobiles, all-terrain vehicles, and ATVs. We have testimony here that there is about a 70% correlation between the two. To me that is extremely high. I am saddened by how high that is. My wife and I live right next to one of the main snowmobile trails the people use all winter long. That snowmobile trail goes right across about 1/4 mile of one of the pastures that we use for our herd of cows. In the Spring, we always walk along that snowmobile trail before we turn the cows into pasture. We always find a few empty beer cans along that snowmobile trail. This Spring, just a few weeks ago, walking that quarter mile stretch of one of the main snowmobile trails we picked up 28 empty beer cans along that snowmobile trail. Other committee members on the Criminal Justice Committee, most notably Representative Sykes who has a camp on a lake and he was very discouraged by the increased incidences of people obviously drunk driving their boats in front of his camp. The Secretary of State, in the past, has usually opposed amendments like this that would say that if you already had an OUI and you have an OUI on a recreational vehicle it's going to count as a second offense. That's what this amendment does. To me, it's long overdue. I think we need to be stricter with people who choose to drink and drive. You can cause just as much damage driving an ATV, a snowmobile, or a boat drunk as you can, in my opinion, a car or a pickup. I urge you to oppose the pending motion so we can go on and support the Majority Ought to Pass Report. Thank you very much.

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

Senator **DAVIS:** Thank you, Madame President. Men and women of the Senate, I agree with the Senator from Androscoggin, Senator Nutting. I think that a snowmobile that can go 80 or 90 miles per hour, and you are drinking, is certainly a dangerous weapon in the hands of someone who is under the influence of alcohol. I urge you to defeat the pending motion and go on the Majority Report. 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 am rising to ask you to support the pending motion. Notwithstanding the financial windfall of \$1.40 that the good Senator from Androscoggin happened upon this Spring. I will simply say that it is wrong to operate a motor vehicle while you are impaired. There's a danger that one is exhibiting to themselves and certainly to others when operating a vehicle that way. I do not see the correlation between operation of a snow machine, an ATV, or a boat with the operation of a vehicle that we license on the road. I do not agree that those ought to be tied together. We issue the credential in the state of Maine for a person who is of age and who has demonstrated sufficient

knowledge of the law, and who has demonstrated a certain proficiency of handling a motor vehicle, we offer a credential that is their permission, it's not their right, it is their permission, to operate a vehicle on the infrastructure of our transportation network in the state of Maine. It ought to be, in my opinion, the rescinding of that permission ought to be for some violation that they have demonstrated in the operation of that vehicle. I don't happen to agree that it ought to be for not paying child support or any of the other things that we have tied to it. If we need to deter the operation of a snowmobile, boat, or ATV while impaired, and I think we do, then let us consider tying that penalty to the permission they are granted when they are issued a license to fish in our streams, rivers, and lakes, or to hunt in our fields and forests. I would maintain that those people who made those violations with an ATV, snow machine, or any of the other things we've talked about, would be very unwilling to lose those rights. To tie them to a motor vehicle operating on the road when there has been no demonstrated violation of those abilities is absolutely wrong and I will be supporting the pending motion. Thank you, Madame President.

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

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, this bill has nothing to do with littering, nothing at all. This bill also has nothing to do with an out-of-stater coming here with a boat and getting drunk and driving because he wouldn't be affected by this bill. We don't have that kind of power over his driver's license in another state. This is strictly about Maine driver's licenses, which I think should be separate. If you commit a crime driving a car, motorcycle, or something licensed for the highway that's one thing. Committing an offense, whether it is 90 miles per hour drunk or sober, on a lake or in the woods of Maine is a serious offense. The Department of Inland Fisheries and Wildlife has many powers to deal with that. They can arrest you whether you're from Massachusetts or Maine. It doesn't much matter, if you're driving to endanger you can get arrested. You can get fined. It has some pretty stiff fines. Using the driver's license in the state of Maine to get back somebody in Massachusetts, you can't do it. It doesn't work. Not in this instance. This bill has nothing to do with how many beer cans you're going to find out in the woods. I'd bet you a lot of them come in on backpacks. I'll bet a lot of them come in on the back of hunters. I'll bet a lot of them aren't brought in on a 4-wheeler or snowmobile. Last week we talked about public safety and this week we're talking about Criminal Justice, which is a great committee to belong to because such a variety of interesting bills that come in front of us. Let's keep in mind that this would not affect the event we heard about that went on in Representative Sykes' district, nor would this really affect what is going on in the Senator from Androscoggin, Senator Nutting's district. I think that IF&W could get you for both of those and have more tools to use than a driver's license. I hope you will follow my light on this issue, thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise for a second time to try to correct the record here on several issues that have come up. First, yes,

it may have been \$1.40 worth of cans, but metal in a pasture for a dairy farmer is not a humorous situation. Cows will eat metal. It goes through their stomachs and kills them. It's a huge issue. I doubt that people were depositing empty beer cans on the snowmobile trail while they were hiking in the winter. I believe those cans came from people who were drinking and snowmobiling, which is on the increase, unfortunately, according to the Department of Inland Fisheries and Wildlife. I'm still amazed with the argument that we can't vote for the Majority Report because it might have unintended consequences. To me, if you're going to drink and drive anything there should be consequences. If you've been drinking and ATVing how does it protect, if you've been drinking and driving, public health by taking away your right to hunt? If we're going to protect the public we need to take away their right to drive so they finally get the message that it isn't okay to drink and drive anything. Snowmobiles, ATVs, boats, all can go just as fast as a car or truck can now and can cause just as much damage. There is a sad but alarmingly high percentage now, according to research by Col. Joe Wilkinson of the Warden Service, and a connection between those driving motor vehicles and driving ATVs, snowmobiles, and boats while drunk. At the last work session we asked the Secretary of State's Office about reciprocity with other states on a subject like this, and they stated that we do now have reciprocity with most, not all but most, states. I wanted to put that on the record for your consideration, and I urge you to oppose the pending motion.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, I won't belabor this. I think, number one, the bill is probably in the wrong committee. Number two, currently under Title 12 if you operate an ATV while impaired it's automatic revocation of your right to operate the ATV and automatic suspension of hunting and fishing licenses. The laws are tough now. I think what this bill tries to do, from the accident on Long Lake where a 25' or 30' boat ran over a smaller boat, it tries to get at that. That person was from out-of-state. What this bill does is only pertain to people that are residents of the state of Maine. It tries to capture them all into one. I would say that if we're going to go down this road, to add to the license and add to other things, we should look at maybe farm equipment. You should look at every other thing that there is if you are going to lump everything in. I would support the pending motion.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, this is certainly a tough issue to get up and not support. I certainly understand people's fear. People that end up causing accidents while impaired, it's a sad thing for the families that they hurt. At the same time, I don't see this as being something that actually is going to help the state of Maine. One of the comments about the cans, beer cans, I'm sure there were some Pepsi cans there, too. That's a problem of people not picking up their trash, taking care of their remains. As the Senator from Oxford, Senator Bryant said you would really have to send this down to golf carts, which I think is going to cause a real problem, and lawnmowers, things like that. I just don't see

how you tie that to motor vehicles. I'm always opposed to that idea. I think that problem is if someone gets caught on a skidoo or an ATV, they should pull their registration and that will keep them off and make them realize what the issue is. I don't understand, in a state as rural as Maine, if someone has made the poor decision to ride an ATV while impaired why they should have that charged against their driver's license. I just can't see that as being something that we'd want to get into and so I would ask you to support Ought Not to Pass for it.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, having spoken twice, I request permission to speak a third time.

**THE PRESIDENT:** The Senator from Androscoggin, Senator Nutting, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **NUTTING:** Thank you, Madame President. Yes, the statutes on ATVs are stricter, as mentioned by a previous speaker, but the statutes on snowmobiles and boats are not. To quote from a couple of points made by Col. Wilkinson of the Maine Warden Service, 93 of the 155 people that had ATV OUI convictions had motor vehicle convictions. A 66% correlation. It's 62% for snowmobilers and motor vehicle convictions. To me, the same people are continuing to drive anything they drive intoxicated. Current statute does not address that fact that this problem is getting worse, and worse, and worse, and more and more people are getting hurt. I urge you to oppose the pending motion.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, clearly there is a problem. These accidents are on the rise. The reason why I do not support the pending motion, and I will be voting in opposition to it, is that I believe we need to do more to prevent people from driving while intoxicated, whatever vehicle it is that they are driving. I happen to know because somebody I know very well was stopped while intoxicated. I will tell you, it has made an incredible difference in his life. I don't think he will ever drive while intoxicated again. I think it does make a difference. I think that is why it is important, and I think it will make the state of Maine safer. I hope you will join me and oppose the pending motion.

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

Senator **GERZOFSKY:** Thank you, Madame President. Men and women of the Senate, I hope this doesn't bring up a fourth or fifth time getting up. This is my second. Driving a vehicle on the highways of Maine is a privilege the State of Maine gives you. Driving a snowmobile on a snowmobile trail, I think, is a privilege the property owner gives you. We have to keep in mind that this bill isn't going to affect many people coming here from away that ride on those trails. They are not going to know about this bill to

begin with. It's going to affect Mainers that might have a couple of nips up in Jackman, out in the middle of nowhere on a cold night. I don't think it's going to affect a lot of other people. I think we have to remember that the privilege to operate doesn't give anyone the privilege of operating drunk or at excessive speeds. Like I mentioned earlier, the driver's license for driving a vehicle is something that the State of Maine gives us and I don't think we should encumber that with all the other ways that we would like to control driver's licenses. If you follow my light on this, you'll be right.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just want to reiterate that if this doesn't take into account people in other states, then I think we're making a huge mistake. The highest profile cases of OUI accidents that caused death and injuries through OUIs have all been from people that were from away from here. This is only going to affect Maine people. I certainly don't think this is fair. If there is a problem, as one previous person said, I think the problem is that we just don't have enough game wardens out there. I think the laws that are already there are effective enough to stop people from actually doing this but there are probably not enough people out there to apply them.

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

Senator **PLOWMAN:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **PLOWMAN:** Thank you, Madame President. Does this also include a civil suspension by the Secretary of State. Would there be a back-to-back like in other OUI convictions? Thank you.

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

Senator **BRYANT:** Thank you, Madame President. I believe it does. It adds onto, it doubles. I guess I'll leave that alone. I don't think it actually clarifies what you asked.

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

Senator **DIAMOND:** Thank you, Madame President. Men and women of the Senate, to answer the question, when it is civil there is an administrative suspension that goes with this. There are two hearings. There is a hearing in the courtroom and there is an administrative hearing held by the Secretary of State. I'm not sure if that was asked. While I'm up, this is one of those bills we've been working on for years, trying to stop OUIs, to reduce all OUIs in all manner. However, there has always been this great attraction by most of us to try to solve society's problems by using the driver's license. That becomes a real problem because we've

had bills before this Body that if you drop out of school they are going to take your driver's license away from you. We've already passed laws that if you don't pay child support you will lose your driver's license. If you don't pay your dog license you will lose your driver's license. Things have gotten to be pretty far fetched from the original purpose and design of the license. I would hope that we support the pending motion because of reciprocity if nothing else. Maine does have reciprocity through the Secretary of State with most, and I think almost all states, now. If you lose your license in California, that's going to reflect here in the State of Maine and vice versa. When you get all these added reasons to lose your license, totally unrelated to driving on the highway, then it becomes a problem. It becomes a bigger problem. I urge you to support the pending motion. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky to Accept the Minority 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 (#130)**

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, BRYANT, COURTNEY, DAMON, DIAMOND, GERZOFKY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, PERRY, PLOWMAN, SHERMAN, SULLIVAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BOWMAN, CRAVEN, DAVIS, GOODALL, GOOLEY, MILLS, NASS, NUTTING, RAYE, RECTOR, ROSEN, SCHNEIDER, SIMPSON, SMITH, TRAHAN

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

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Base the Value of Eminent Domain Takings on Going Concern Value"

H.P. 832 L.D. 1207

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-361)** (7 members)

Minority - **Ought Not To Pass** (6 members)

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **BLISS** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, May 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361).**)

(In Senate, June 1, 2009, Reports **READ.**)

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, this is a bill that has visited the Senate before in my tenure, or a variation of it. It's a bill whose fate may well be determined by its fiscal note, but whose fiscal note explains why we should vote against the pending motion and move to adopt the Ought to Pass Report. What this bill does, in a nutshell, is say that the government of Maine, in exercising its right of eminent domain to take a private person's property for public purposes, will pay and shall be required to pay, if it is a business, the full going concern loss of that business. What does that mean? Typically when it's a residence, or piece of land, that can be appraised and you pay fair market value. The question becomes what is fair market value? What this bill recognizes is that for certain commercial properties, going businesses, the fair market value of that business is more than just what that little plot of land is worth and the constructed building on it, that because of its location, it has an inherent good will value that can't be replaced by moving it to another location. That is just what the bill says, in a nutshell. It's modeled, by the way, after a statute that's been in effect in California for a number of years. The State of Florida has similar language. It recognizes that there are certain locations, usually for retail establishments, that if you move certain retail establishments or that restaurant some place else with exactly the same facility, exactly the same people, it will not be worth as much and business will decline. Many of you are probably aware of the well-known Sail-Inn issue with the new bridge in Hancock County. The restaurant was at the base of the new bridge. For public purposes, that restaurant was determined that it had to be moved. They had probably one of the finest locations for a restaurant. Beautiful, up on the cliff overlooking the bay. What they were offered was just the real estate value of that property.

Let's turn to the fiscal note, because I believe that makes our case. The fiscal note for this bill is about \$1 million a year to the Department of Transportation. It recognizes that if the State is required to pay the full loss to a business for having its location taken for a public purpose that the State would be required to pay an extra \$1 million over and above what it would pay now. That is what the estimate is. What that tells you is that the State is now paying \$1 million too little. I fully agree that the State has the right and the need for public purposes for taking property. It's often necessary. If you are that individual that is in the crosshairs of that new road, I also believe that you are entitled to 100% of your loss that was taken from you by the State. The fiscal note says that by doing so it's going to cost the State \$1 million. Well this is one case where in fact that this does increase the cost to the

State, but I would have to say that in spite of that we must move forward and make sure we properly compensate those individuals. Nobody wants to be in the crosshairs of progress or to have their house or their business taken, but if it happens I think it's extremely important that we, as a Legislature and a State, fully compensate those who we harm. Madame President, I urge that the Senate vote against the pending motion and move to the Ought to Pass Report. Thank you.

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

Senator **BLISS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I appreciate the comments from my good friend, the Senator from Oxford. Unfortunately, he makes some of my points for me. It is true that this is an issue that's been discussed over and over again in the Legislature. We actually made dramatic changes to help businesses in the 122<sup>nd</sup> Legislature, but we decided not to go in the direction of this bill, nor have 46 of the other 50 states. There are, in fact, only three states that have anything like what the good Senator proposes in this bill. With regard to the fiscal note, we just, frankly, cannot afford \$1 million a year, \$150,000 of which would come out of the General Fund, and \$850,000 of which would come out of the already significantly troubled Highway Fund. This may be something that warrants looking at sometime in the future, particularly when we see that other states have had any success at all with this type of bill, but now is not the time. I urge my colleagues to vote Ought Not to Pass.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Bliss to Accept the Minority 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 (#131)**

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Allow for a Dual Liquor License"

H.P. 681 L.D. 989

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-425)** (11 members)

Minority - **Ought Not To Pass** (2 members)

Tabled - June 1, 2009, by Senator **SULLIVAN** of York

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

(In House, May 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-425).**)

(In Senate, June 1, 2009, Reports **READ.**)

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **SULLIVAN** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature

H.P. 123 L.D. 144

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-135)** (4 members)

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Ordered)

(In House, May 29, 2009, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY HOUSE AMENDMENT "A" (H-252)** thereto.)

(In Senate, June 1, 2009, Reports **READ.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#132)**

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

NAYS: Senators: BRANNIGAN, HOBBS, NASS, SHERMAN, SIMPSON

30 Senators having voted in the affirmative and 5 Senators having voted in the negative, the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-135) **READ**.

House Amendment "A" (H-252) to Committee Amendment "A" (H-135) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-135) as Amended by House Amendment "A" (H-252) thereto, **ADOPTED**, in concurrence.

On motion by Senator **HOBBS** of York, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-135) as Amended by House Amendment "A" (H-252) thereto, in concurrence.

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

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

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

**THE PRESIDENT:** The Senator may pose her question.

Senator **SULLIVAN:** Thank you, Madame President. My eyes are working, and my ears are working, but my mind is obviously not. What are we taking a roll call on now?

**THE PRESIDENT:** The roll call is on adoption of Committee Amendment "A" as amended by House Amendment "A". The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I believe House Amendment "A" changes the original bill from 115 to 131 House members.

**THE PRESIDENT:** The Chair would advise that it changes the year, and the Senator from Androscoggin, Senator Simpson can clarify everything. The Chair recognizes the Senator from Androscoggin, Senator Simpson.

Senator **SIMPSON:** Thank you, Madame President. House Amendment "A" (H-252) is to make it so it goes into effect after redistricting, so it's a change of date. The number was changed in the Committee Amendment to 131 from the original bill, which was 115. Thank you.

**THE PRESIDENT:** 2013 to 2015 is all the House Amendment "A" does. It moves to after redistricting. Does that answer your question Senator Sullivan? The pending question is adoption of Committee Amendment "A" (H-135) as amended by House Amendment "A" (H-252) thereto. 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 (#133)**

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

NAYS: Senators: GERZOFSKY, JACKSON, SHERMAN, SIMPSON, SULLIVAN

30 Senators having voted in the affirmative and 5 Senators having voted in the negative, Committee Amendment "A" (H-135) as Amended by House Amendment "A" (H-252) thereto, **ADOPTED**, in concurrence.

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-135) AS AMENDED BY HOUSE AMENDMENT "A" (H-252)** thereto, in concurrence.

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

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

Bill "An Act To Increase Consumer Choice for Wine"  
H.P. 696 L.D. 1008  
(C "A" H-366)

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

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

(In House, May 29, 2009, **PASSED TO BE ENGROSSED AS AMENDED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-366).**)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#134)**

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

NAYS: Senators: SCHNEIDER, SHERMAN, SMITH

32 Senators having voted in the affirmative and 3 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later Today 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 **BARTLETT** of Cumberland

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

(In Senate, **READ A SECOND TIME.**)

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

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

Bill "An Act Regarding Asbestos Abatement Work"  
S.P. 518 L.D. 1434  
(S "A" S-272 to C "A" S-159)

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#135)**

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

Bill "An Act To Require That a Majority of the Members of the Maine Land Use Regulation Commission Reside in the Commission's Jurisdiction"

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

Tabled - June 1, 2009, by Senator **BARTLETT** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**

(In House, May 28, 2009, Report "A", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

(In Senate, May 29, 2009, Report "C", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-387) READ** and **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-387) **READ** and **ADOPTED**.)

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

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-278) **READ**.

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

Senator **MILLS:** Thank you, Madame President. This is a very simple amendment but not perhaps simple in execution. As you may recall from prior debates and discussion, the Land Use Regulatory Commission is comprised of seven board members. The current law says that at least two of them must be from within the jurisdiction of the Land Use Regulatory Commission, in other words from within the unorganized territory. There are only, as I understand, about 12,000 people who live in the unorganized territory. That's less than 1/10 of 1% of the population of the state of Maine. The scarcity of such people is perhaps best exemplified by the fact that I think we have only one member of the Legislature who actually lives in the unorganized territory, although on any given day Cornville is likely to be a bit disorganized. There is one member of the House from Lexington. The bill, as we passed it the other day on first reading and amended, suggests that we should increase the number of people residing in the unorganized territory from two up to three, so that three out of seven would be residents of the unorganized territory. I represent a huge portion of the unorganized territory and I also represent a number of small towns, municipalities, and plantations that are adjacent to the unorganized territory. I can tell you from many years of personal experience that the people who care most deeply about the unorganized territory are the people who live in those towns that adjoin the territory. Towns like Jackman, Moose River, Rangeley, Greenville, and I think Ashland is adjacent to the unorganized territory. Lots of our smaller towns where the loggers, foresters, and guides, the people who make their living from hunting, fishing, and cutting wood in the unorganized territory don't live in the unorganized territory, by large. Most of them, nearly all of them, live in towns, small towns, that are adjacent to the jurisdiction. It is for that reason I offer the amendment before you that says let's raise the number of people on the Board from two to three that have some affiliation with the unorganized territory but let's draw them from the towns as well as from the jurisdiction itself, thus I think better effectuate the policy that underlies the drafting of this amendment. For that reason I ask that you approve the adoption of this amendment. Thank you.

Senator **NUTTING** of Androscoggin moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278).

Same Senator requested a Roll Call.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, this amendment really, I believe, guts the bipartisan 31 to 4 vote we had on this issue last week. Currently, of the seven members on the LURC board, three live in LURC jurisdiction and two live in communities adjacent to LURC jurisdiction. If you adopt this amendment, you are going from five to three in this category. That is not the intent of our committee. It was not the intent of everyone that came to the public hearing in support of this particular L.D. I will repeat that again so everybody understands it. Currently of the seven members of the LURC board, three live in LURC jurisdiction and two live in communities adjacent to LURC. If you adopt this amendment all you are going to need to do is have three living in LURC or adjacent. In effect, you are going to lower by two the number of people serving on the LURC board that live in LURC or adjacent communities. I urge you to support my motion to Indefinitely Postpone Senate Amendment S-278. Thank you.

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

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

Senator **SIMPSON:** Thank you, Madame President. May I pose a question through the Chair?

**THE PRESIDENT:** The Senator may pose her question.

Senator **SIMPSON:** Thank you, Madame President. I just wanted some clarification. Does the current statute require three, if we were to change it to the three as the original bill would do, be from the jurisdiction and two from adjacent communities or is that just the current make up?

**THE PRESIDENT:** The Senator from Androscoggin, Senator Simpson poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. The statute, I've got it in front of me, the current law, says at least two members must be from within the jurisdiction. Certainly the Governor is free to appoint more than that if he wishes to. I believe the other Senator from Androscoggin was giving you the current make up of the board. If this bill passes in any form, it won't require any change in the current make up of the board. You could very easily have five out of seven from within the jurisdiction or from the jurisdiction and the adjoining municipalities. The point is, what will the statute say in the future about what the minimum requirements are for one's affiliation with the unorganized territories? The amendment that lies before you merely suggests that it should include the adjoining towns. Thank you.

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

Senator **NUTTING:** Thank you, Madame President. To further answer the good Senator from Androscoggin's question, the statute reads that the minimum number of people that have to live in LURC jurisdiction is two out of seven. The statute is silent on

how many have to live adjacent. Of the seven members currently on the board, five either live in LURC jurisdiction or in adjacent communities. If you adopt this amendment, that five is going to drop to three and, to me and I believe a majority of our committee, that would not be acceptable. Thank you.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I had two questions, one of which has been answered by the good Senator from Androscoggin, Senator Nutting. The other one is that usually we have hearings on these. We haven't had a hearing on this one. I'm wondering if the good Senator who proposed this amendment could tell us what population we then would draw from. He mentioned two communities with populations surrounding that 10 million acres up there and I have several of these areas in my district. I'd like to know if he researched this and how much of a population this would be expanded this to that would be adjacent to it.

**THE PRESIDENT:** 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 Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. In response to the question, I have not researched the numbers but I would be surprised to hear that it's more than 50,000 and certainly not more than 100,000.

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

Senator **RAYE:** Thank you, Madame President. I rise to support of the pending motion. I represent a great deal of unorganized territory. There are many fine and talented people residing in the UT who would be very capable of serving on LURC. I think that it behooves us to maximize the number of people who are directly affected and reside in the UT to serve on LURC. I think LURC should be made up entirely of residents affected, so I believe the underlying bill is a step in the right direction and I would support Indefinite Postponement of this amendment.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Nutting to Indefinitely Postpone Senate Amendment "A" (S-278). 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 (#136)**

**YEAS:** Senators: ALFOND, BARTLETT, BOWMAN, BRANNIGAN, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFSKY, GOODALL, HASTINGS, HOBBS, JACKSON, MARRACHE, NUTTING, PERRY, PLOWMAN, RAYE, SCHNEIDER, SHERMAN, SIMPSON, SMITH, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

**NAYS:** Senators: BLISS, BRYANT, GOOLEY, MCCORMICK, MILLS, NASS, RECTOR, ROSEN, WESTON

26 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **NUTTING** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-278), **PREVAILED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-387), in NON-CONCURRENCE.**

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/28/09) Assigned matter:

HOUSE REPORT - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting

H.P. 176 L.D. 211

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-143)**

Tabled - May 28, 2009, by Senator **SIMPSON** of Androscoggin

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

(In House, May 26, 2009, Reports **READ** and RESOLUTION and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, May 28, 2009, Report **READ**.)

On motion by Senator **SIMPSON** of Androscoggin, RESOLUTION and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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

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

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On motion by Senator **BARTLETT** of Cumberland,  
**RECESSED** until 3:00 in the afternoon.

After Recess

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Directing the Department of Education To Include the Study of Family and Consumer Science in the System of Learning Results

H.P. 702 L.D. 1027

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

Signed:

Senators:

- ALFOND of Cumberland
- SCHNEIDER of Penobscot
- WESTON of Waldo

Representatives:

- SUTHERLAND of Chapman
- 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-462)**.

Signed:

Representatives:

- FINCH of Fairfield
- CASAVANT of Biddeford
- RICHARDSON of Carmel
- McFADDEN of Dennysville
- JOHNSON of Greenville

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-462)**.

Reports **READ**.

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

On further motion by same Senator, **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 **NON-CONCURRENCE**. (Roll Call Ordered)

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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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements"

H.P. 876 L.D. 1257

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-457)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-457)**.

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

**READ ONCE**.

Committee Amendment "A" (H-457) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care (EMERGENCY)

H.P. 864 L.D. 1245

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-460)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-460)**.

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

**READ ONCE.**

Committee Amendment "A" (H-460) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act To Amend the Statute of Limitations for Actions against the Estate of a Decedent"

H.P. 420 L.D. 582

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-458)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-458)**.

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

**READ ONCE.**

Committee Amendment "A" (H-458) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions"

H.P. 457 L.D. 643

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-459)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-459)**.

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

**READ ONCE.**

Committee Amendment "A" (H-459) **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 **LEGAL AND VETERANS AFFAIRS** on Resolve, To Recognize Women Veterans in the State House Hall of Flags

H.P. 1023 L.D. 1470

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-456)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.

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

**READ ONCE.**

Committee Amendment "A" (H-456) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Create a Sustainable Funding Mechanism for Water and Wastewater Infrastructure in the State"

H.P. 464 L.D. 650

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-455)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-455)**.

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

**READ ONCE.**

Committee Amendment "A" (H-455) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Community-based Energy"

H.P. 742 L.D. 1075

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-463)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-463)**.

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

**READ ONCE.**

Committee Amendment "A" (H-463) **READ** and **ADOPTED**, in concurrence.

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

---

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Joint Order**

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act Regarding the Central Voter Registration System" H.P. 1037 L.D. 1484

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 1030.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-486)**.

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

**READ ONCE.**

House Amendment "A" (H-486) **READ** and **ADOPTED**, in concurrence.

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

---

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Update Department of Defense, Veterans and Emergency Management Laws" H.P. 931 L.D. 1327

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-390)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-390) AS AMENDED BY HOUSE AMENDMENT "A" (H-467)** thereto.

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

**READ ONCE.**

Committee Amendment "A" (H-390) **READ**.

House Amendment "A" (H-467) to Committee Amendment "A" (H-390) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-390) as Amended by House Amendment "A" (H-467) thereto, **ADOPTED**, in concurrence.

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

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

**ENACTORS**

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

**Emergency Measure**

An Act To Clarify the Taxability of Promotional Credits in the State Gaming Laws

S.P. 346 L.D. 924  
(C "A" S-205)

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

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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 **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Pharmacists To Administer Certain Immunizations" H.P. 843 L.D. 1223

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-473)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-473)**.

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

**READ ONCE.**

Committee Amendment "A" (H-473) **READ** and **ADOPTED**, in concurrence.

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

---

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Abolish the State Board of Education"  
H.P. 900 L.D. 1297

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-478)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)**.

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

**READ ONCE.**

Committee Amendment "A" (H-478) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act To Increase the Evidentiary Standard Required To Establish a Guardianship"  
H.P. 647 L.D. 944

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-479)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**.

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

**READ ONCE.**

Committee Amendment "A" (H-479) **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 **JUDICIARY** on Bill "An Act To Establish Child Custody and Domestic Violence Presumptions"  
H.P. 787 L.D. 1143

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-472)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)**.

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

**READ ONCE.**

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws"  
H.P. 755 L.D. 1093

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-476)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476)**.

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

**READ ONCE.**

Committee Amendment "A" (H-476) **READ** and **ADOPTED**, in concurrence.

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 198

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

June 1, 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 accepted the Minority Ought Not to Pass Report of the Committee on Taxation on Bill "An Act To Clarify When the Rental of a Car is Exempt from Sales and Use Tax" (S.P. 240) (L.D. 666)

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Create Regulatory Exemptions for Poultry"

H.P. 709 L.D. 1034

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-427)** (10 members)

Minority - **Ought Not To Pass** (1 member)

Tabled - June 1, 2009, by Senator **NUTTING** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 29, 2009, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-427) AS AMENDED BY HOUSE AMENDMENT "A" (H-466)** thereto.)

(In Senate, June 1, 2009, Reports **READ**.)

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

**READ ONCE.**

Committee Amendment "A" (H-472) **READ**.

House Amendment "A" (H-466) to Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-472) as Amended by House Amendment "A" (H-466) thereto, **ADOPTED**, in concurrence.

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

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

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Authorize the Annexation of a Portion of Redington Township in Franklin County to the Town of Carrabassett Valley" (EMERGENCY) S.P. 288 L.D. 741

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-252)** (9 members)

Report "B" - **Ought Not to Pass** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (S-253)** (1 member)

Tabled - May 29, 2009, by Senator **SIMPSON** of Androscoggin

Pending - motion by same Senator to **ACCEPT** Report "B", **OUGHT NOT TO PASS**

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

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

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

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I rise today to ask for your support for L.D. 741, a bill wholeheartedly supported by the local Franklin County communities that it affects and who simply ask you to allow them the opportunity to decide for themselves whether to annex Redington Township into the Town of Carrabassett Valley. This bill is about allowing local control over the decision to expand the territory of Carrabassett Valley and to assume both the burdens and responsibilities that expansion would create. While you have probably heard many arguments against this bill, and I'm sure you have, almost all of them ignore the issue of local control. L.D. 741 does one thing and one thing only, it allows the local residents of Carrabassett Valley the opportunity to vote on whether or not to annex adjacent land in Redington Township. By approving this bill, you would be allowing the community of Carrabassett Valley to begin a community-wide conversation about the pros and cons of annexation. Carrabassett Valley has had this conversation before. Back in 1975 the Legislature authorized and the voters approved the annexation of what was then Sugarloaf Township into the town of Carrabassett Valley. Since that time the town has shown a long successful record of careful land use planning, which has preserved regional character while managing a major resort area, expensive housing stock, large forestry operations, and large undeveloped tracts of land. The town of Carrabassett Valley is proud of its comprehensive plan, and it should be, as it balances the need of the environment,

the economy, and the residents of the area. Carrabassett Valley is fully capable of deciding for itself whether it wants to annex this land. Local residents are smart, informed, and completely prepared to make up their own minds on this annexation. They simply need this Legislature's approval before this conversation can begin. In closing, this bill is not about whether a wind farm should be approved. It is not about evaluating the environmental impacts of a yet-to-be permitted potential wind project. It is simply about supporting a municipal government's local control of what happens in their town and allowing them to decide for themselves whether or not to add Redington Township to their thriving community. The issues relating to the proposed wind farm will be decided by the DEP if, and only if, the voters of Carrabassett decide to proceed with this proposed annexation. I ask for your support of L.D. 741, and urge you to vote against the pending Ought Not to Pass motion and to go on and accept Report "A". Thank you.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I am sorry to get up and oppose my good friend from Franklin County, but to say that L.D. 741 isn't about wind power is an interesting argument, at best. The only reason for Carrabassett Valley to annex Redington Township is to move that township, and in fact in the bill it is to move that township into the extradited permitting area for wind power. Let's make no mistake that if this bill were to pass that is the purpose and the reason for the bill to be before us. Now he argues about local control, so we want to think about local control. This is under LURC jurisdiction. It's not under Carrabassett Valley jurisdiction today because there are no voters in Redington Township. The question we have before us and need to answer is whether or not we want to allow 400 residents of Carrabassett Valley to take the adjacent township in order to avoid LURC jurisdiction for a project that has been twice denied. I think this is a dangerous precedent and I urge you to support me on the Ought Not to Pass motion. In our committee I asked some people from the town what was their comprehensive land use plan and what were their plans for the rest of the land in this township if they were able to annex it. Were they planning on adopting the comprehensive land use plan for the township that LURC currently has for it or had they considered using their own comprehensive land use plan for this township? They actually said they hadn't actually thought about it at that point, but they did say that they have the ability to create a comprehensive land use plan. They have their own and they would be good stewards and look at it. You might be interested in knowing that the comprehensive plan for the town of Carrabassett Valley generally does not allow for projects above 2,700 feet, whereas these wind farms would be above 3,000 feet. In fact, the land adjacent to Redington is called Conservation and they state, 'allowed uses in the Conservation designation should be limited to natural resources, non-intensive recreational uses, mineral extraction and other traditional non-structural uses found in the working world landscape.' The plan also calls the Appalachian Trail corridor an important recreational area, yet the reason to move this out of LURC jurisdiction is to ignore the fact that this is a part of and neighbor to the Appalachian Trail and the National Park Service opposes having this project move forward. While I'm personally a big fan of wind power, I don't think that this Body wants to tell developers who come to our state that if you can't

get what you want from the governing body, just find someone else, offer them half price electricity, and maybe then you can get what you want. I urge you to please support the pending motion.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise this afternoon to urge you to oppose the pending motion so we can go on and accept the bipartisan Majority Ought to Pass Committee report. As Chair of the Committee that regularly oversees LURC jurisdiction, I asked the question this morning, and have distributed to you, that over the years we have had a number of municipalities that have annexed various sections of LURC lands for various reasons over the years. Every one of those annexations was approved by this Legislature and those communities, even this community of Carrabassett Valley with this annexation. If they want to do any project on that land after they've annexed it, it still has to go through complete DEP environmental permitting. This argument I've heard in the hall that somehow there is no permitting required if you annexed land, to me, is just not accurate at all. I think there is a very dangerous precedent here, but to me the dangerous precedent is are we going to start to have the approval of the environmental lobby before we can annex any land in the future? Where did this new hoop come from? It wasn't there in our other previous annexations. To me, it should not be here with this one either. Our economy is struggling, like everyone else's. I think we need to help those who want to invest in our economy. Look at the town of Madison and what they've done with cheaper electricity. They are supplying tomatoes to maybe not the whole world but darn close to it and employing hundreds of people. That's a good thing for our economy. I urge you to oppose the pending motion so we can go on and accept the Majority Ought to Pass report. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. I rise in support of the pending motion and just thought I could add a couple of points. First, when the Redington project was under approval and ultimately initially went down to defeat at LURC, I was concerned about the precedent that was setting for wind development in the state and whether we might be heading into some real friction about whether and where to place wind in the state. However, LURC has done, since that time and even before that time, an outstanding job in evaluating proposals and permitting appropriate wind development in the state. In fact, there were a total of six projects that have been approved by LURC, both before and after this particular proposal. Secondly, in response to concerns about the time it was taking to get through an approval for wind power projects, both within the unorganized territory and within organized communities, a Wind Power Task Force was developed, put together by the Governor, I had the pleasure of serving on that, looking at how best to promote and expedite wind power development in the state, which is something we all wanted. We created these expedited permitting areas, the very expedited permitting areas that Redington is now seeking to get into through this annexation bill. However, when we carved up the state and looked at where we wanted the expedited areas and where we didn't, we were confronted with

the same choice before us today, whether essentially we should be moving the Redington project into the expedited permitting areas. The feeling at that time by the members of the task force was that LURC had given a full and fair review of this proposal and it came to a decision. It didn't seem proper for us to then try to override that decision or to create a new process within LURC for reviewing the project. It's also important to realize, with respect to the environmental community, that part of this project was approved by the environmental community. While one particular site was opposed, another site was supported by environmental groups and ultimately a compromise was brought forward as part of a round two for LURC to consider, a compromise that was supported by both the developers and the environmental community. This too was turned down. In other words, the members of LURC fully understood what they were doing. They evaluated these proposals, and made a decision on their own based on these particular sites in these particular locations. I think it is inappropriate for us now to make a change and override that decision. I think this is an extraordinarily dangerous precedent we are setting. This isn't a case where a community has come looking to annex some land with the hope of doing something in the future. This is a circumstance where a development has gone through a full review process multiple times, has been looked at, considered, and turned down. Now the community is looking to be annexed in order to try and drive the deal home yet another way. I think that is dangerous. The fact that we could start carving up our unorganized territories based on decisions made by LURC that were adverse to any particular commercial interest. If we really want the unorganized territory to ultimately be wholly own subsidiaries of various corporations, this might be a way to get there. If we believe that the Land Use Regulatory Commission has a responsibility to evaluate all projects and come to good conclusions and good results, and we expect them to put forward fairness in reviewing these projects, we cannot come up here every time a decision is made that someone doesn't like and try to override that by pulling the land out of the unorganized territories. I strongly urge you to support the pending motion and avoid setting what I think is an extraordinarily dangerous precedent that will keep us coming back year in and year out, one commercial interest after another, looking to have their deal made here in the Legislature instead of before the regulatory agency.

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

Senator **GOOLEY:** Thank you, Madame President. I rise again a second time. On Friday the new blades for the Kibby project are going to pass through Farmington. It's quite a sight to behold. Kibby, which is a wind power project, has a ridgeline above 2,700 feet. I guess I make a point on that one. I rise again to provide some context on the Wind Power Task Force legislation which was approved last session. As many of you know, I served on that task force and I'm familiar with both the discussions which lead to the final report and its findings. First, it's important to know that the Wind Power Task Force was created in response to the LURC review process of Redington and the widely understood flaws in that process. After the rejection of the Redington Mountain project by LURC, the Governor recognized that in order to encourage wind power in Maine the permitting process must be changed. In response the task force outlined and expedited permitted zones in which no scenic impact exists.

These changes were designed to make wind permitting more predictable, streamlined and fair, and to ensure that wind power developers would still consider Maine a viable place to invest and build wind farms. Despite the task force's new streamlined process, Redington Township found itself on the losing end of a purely political battle. The task force finalized their report in February of 2008. The Governor introduced the bill, L.D. 2283, on March 27, 2008, which gave the Utilities and Energy Committee only four working days from March 27<sup>th</sup> to April 2<sup>nd</sup> before voting the bill out of Committee. Redington Township was left out of the expedited zone because of the controversy which had surrounded the project. Here we are now. We have expedited permitting zones for new wind power projects. We have newly revised and greatly improved permitting processes which has allowed for many exciting projects to go forward. One problem does remain. Redington got left behind as the pioneer. It was first through the gate in a process which has since been recognized as flawed and unfair. In fixing that flawed process, Redington was again victim to the political process. This was the reason why I was happy to be a sponsor of this bill. We have a chance to remedy this now by simply allowing the town of Carrabassett Valley to decide if they want to annex Redington Township. If the voters support the annexation, at the very least, it would give Redington a well-deserved second chance to make their case before the Maine DEP. Lastly, I'd just like to say that I urge you to vote against the pending motion, Ought Not to Pass, and go on to accept Report "A". Thank you.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'll be very brief. I think it troubles me to hear that the National Park Service was opposed to this project, yet the National Park Service and LURC approved cell phone towers to be built in that area that can be seen from the Appalachian Trail. I guess that's all right. Wind projects, I guess, are a different story. One of the previous speakers said that this land, if annexed, would be going from LURC ownership to be owned by multi-national corporations. This land would be owned by the folks in Carrabassett Valley, not by some corporation. The last point I want to make is NIMBY, not in my backyard. We've had that on several issues in Maine. I know that in this same area of Maine folks delayed the ski-to-hut trail system, that economic development, for 18 months because some of the local folks didn't want a cross country ski trail to cross a quarter of a mile of the Bigelow Preserve in the winter. We did finally get that worked out and the trail in the winter does cross that little tiny corner of the Bigelow Preserve and the system was finally up and running last winter and hiring people and building buildings and helping our economy. Again, I urge you to oppose the pending motion and let's let DEP weigh in on this as they would on any other project. Thank you.

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

Senator **SIMPSON:** Thank you, Madame President. Men and women of the Senate, I wanted to just respond to a couple of things. My good friend from Androscoggin County had, in his previous statement, asked why this annexation is being treated differently from other annexations. I wanted to address that. This

annexation is trying to take a piece of land that is statutorily referred to as a resource, a scenic resource of state and national significance. It's part of the Appalachian Trail system. It's recognized in Title 34. It's also recognized in the Comprehensive Land Use plan, in the Natural Resources Protection Act here in the state of Maine, and by the law we passed last year for the expedited wind permitting system. In fact, part of the streamlined permitting where you don't take into effect scenic vistas and scenic views, you have to be three miles away from the scenic view, whereas this project would be within one mile. Even if we were to pass and allow this annexation, when it came up for review by the DEP they would have to consider the Natural Resources Protection Act. They would have to consider the scenic impact on the Appalachian Trail because they are already established in statute. What we would be doing, most likely, is allowing the town of Carrabassett Valley to annex the township with a very unlikely chance of being able to ever get the permit. We would be setting a precedent that you could come to the Legislature when you don't get your way before the regulatory body, and try to find some other jurisdiction to help you. Please support the pending motion. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Simpson to Accept Report "B", Ought Not to Pass. 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 (#137)**

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

NAYS: Senators: COURTNEY, DAMON, GOOLEY, NUTTING, PLOWMAN, SHERMAN

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator **SIMPSON** of Androscoggin to **ACCEPT** Report "**B**", **OUGHT NOT TO PASS, PREVAILED.**

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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The Chair laid before the Senate the following Tabled and Later (5/28/09) Assigned matter:

Bill "An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities"  
H.P. 39 L.D. 44

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

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-369)**, in concurrence

(In House, May 27, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-369).**)

(In Senate, May 28, 2009, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE.** Committee Amendment "A" (H-369) **READ.**)

Committee Amendment "A" (H-369) **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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

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On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, to Tuesday, June 2, 2009, at 10:00 in the morning.