

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

In Senate Chamber  
Wednesday  
March 24, 2010

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

Prayer by Reverend Kenneth I. Lewis, Jr., Green Memorial  
A.M.E. Zion Church of Portland.

**REVEREND LEWIS:** Let us pray. Oh thou great creative God of all the nations, we bow before You knowing that these gathered here today have the power to choose right over wrong, good over evil. Bless each one of them that they might choose according to Your will. Open ears so that all may truly listen to one another. Open eyes that all may truly see the path called straight. Open mouths that all may speak with the deepest of integrity. Open hearts and minds that all may seek the common good. Grant that the only ambition in this chamber may be the desire to achieve peace, prosperity and opportunity for all. Grant that the only competition may be the struggle for justice. We pray for guidance in the matters at hand and ask that You would clearly show us how to conduct our work with a spirit of humility. May the matters discussed in this chamber serve as a catalyst to move us forward and cause us to advance and see growth in all areas of the State of Maine. As we come to the end of our time together, we thank You in advance for what will be accomplished here today. Amen.

Reading of the Journal of Tuesday, March 23, 2010.

Doctor of the day, Dr. Alex Brazalovich, DO of Saco.

**Off Record Remarks**

Senator **ROSEN** of Hancock was granted unanimous consent to address the Senate on the Record.

Senator **ROSEN:** Thank you, Madame President. I just want to show my appreciation for your willingness to acknowledge the accomplishment of the Brewer High School Boys Hockey Team and their accomplishment this year for achieving the 2010 Class B Boys Championship. They are a remarkable team and the coaching staff, the members of the team, the parents, the boosters, the community and the school at large, all deserve congratulations and recognition for their accomplishment and the accomplishments they've achieved over the years. Just a quick side note, I'd like to mention that this is a group of young men

who have become solidified and unified, I would say, well before even their high school hockey years. Many of these gentlemen have been friends for a long, long time and have been on the ice for years, becoming a unit in terms of playing together up through the system and have stayed tight now that they are representing Brewer and Class B Champions at large. I'm very happy to have them here, and thank you for the acknowledgement.

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Resolve, To Continue Evaluating Climate Change Adaptation  
Options for the State

S.P. 733 L.D. 1818

In Senate, March 17, 2010, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-765), in NON-CONCURRENCE.**

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

**Joint Resolution**

The following Joint Resolution:

H.P. 1307

**JOINT RESOLUTION COMMEMORATING  
THE HOLOCAUST AND HUMAN RIGHTS CENTER OF  
MAINE'S LEGISLATIVE AWARENESS DAY  
AND YOM HASHOAH, THE DAY OF REMEMBRANCE**

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Holocaust as part of a state-sponsored, systematic persecution and annihilation program of genocide, and millions of other people suffered as victims of Nazism, such as the handicapped, political dissidents and many others for racial, ethnic or national reasons; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated, and the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies and governments; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some of whom lost their lives and others of whom have experienced lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, the national community, pursuant to an Act of Congress, will be commemorating the week of April 11, 2010 through April 18, 2010 as the Days of Remembrance of the Victims of the Holocaust, including the Day of Remembrance, known as Yom HaShoah, April 11, 2010; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration, and March 23, 2010 has been designated as the Holocaust and Human Rights Center of Maine's Legislative Awareness Day; now, therefore, be it

RESOLVED: That We, the Members of the 124th Legislature now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Holocaust and in honor of the survivors, rescuers and liberators; that we urge one and all to recommit themselves to the lessons of the Holocaust through the Holocaust and Human Rights Center of Maine's Legislative Awareness Day and the international week of commemoration; and that we express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Holocaust and Human Rights Center of Maine and the United States Holocaust Memorial Council in Washington, D.C. on behalf of the people of the State of Maine.

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

**READ** and **ADOPTED**, in concurrence.

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The following Joint Resolution:

H.P. 1308

**JOINT RESOLUTION TO RECOGNIZE APRIL AS DONATE LIFE MONTH IN MAINE**

WHEREAS, the United States Department of Health and Human Services, Division of Transplantation has designated the month of April as National Donate Life Month to promote organ, tissue, blood and bone marrow donation awareness; and

WHEREAS, in the fall of 2006 Donate Life America launched the Donor Designation Collaborative, a national effort to improve donation rates by ensuring each state has an effective system for allowing individuals to designate themselves as donors; and

WHEREAS, this Donor Designation Collaborative has focused on encouraging state teams to test, adopt and share best practices that measurably increase the number of registered

donors and since 2006 registries have been founded in every state of the Union; and

WHEREAS, having a month designated as Donate Life Month will help Maine reach the goal of having as many adults as possible add their names to the Maine Donate Life Registry; and

WHEREAS, more than 105,000 people in America are waiting for lifesaving transplants, and over 6,600 will die this year; and

WHEREAS, last year more than 28,000 lives were saved through organ transplants and more than 1,000,000 life-enhancing tissue transplants are performed each year, offering patients a new chance at healthy, productive and normal lives; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, recognize the month of April in Maine to be Donate Life Month and urge and request the citizens of Maine to sign on to the Maine Donate Life Registry; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Donate Life Registry.

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

**READ** and **ADOPTED**, in concurrence.

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**COMMUNICATIONS**

The Following Communication: S.P. 743

**STATE OF MAINE  
124<sup>TH</sup> MAINE LEGISLATURE**

March 23, 2010

Sen. Justin L. Alfond  
Senate Chair, Joint Standing Committee on Education and Cultural Affairs  
Rep. Patricia B. Sutherland  
House Chair, Joint Standing Committee on Education and Cultural Affairs  
124<sup>th</sup> Legislature  
Augusta, ME 04333

Dear Senator Alfond and Representative Sutherland:

Please be advised that Governor John E. Baldacci has withdrawn his nomination of Richard Oravetz for appointment to the Maine School of Science and Mathematics, Board of Trustees, pursuant to Title 3 M.R.S.A. § 154.

This nomination is currently pending before the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,

S/Elizabeth H. Mitchell  
President of the Senate

S/Hannah M. Pingree  
Speaker of the House

**READ and REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

Ordered sent down forthwith for concurrence.

The Following Communication: S.C. 726

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Christopher J. McCormick of Cumberland Foreside, for appointment to the Maine Community College System, Board of Trustees.

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	Alfond of Cumberland, Schneider of Penobscot
	Representatives	9	Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		2	Rep. Sutherland of Chapman, Sen. Weston of Waldo

Eleven 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 Christopher J. McCormick of Cumberland Foreside, for appointment to the Maine Community College System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The Chair noted the absence of the Senator from Piscataquis, Senator **SMITH**, and the Senator from Sagadahoc, Senator **GOODALL** and further excused the same Senators from today's Roll Call votes.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#336)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Christopher J. McCormick** of Cumberland Foreside for appointment to the Maine Community College System, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 727

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Kenneth J. Hoeflick of Standish, for appointment to the Maine Community College System, Board of Trustees.

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	1	Alfond of Cumberland
	Representatives	8	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Lovejoy of Portland, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		4	Rep. Johnson of Greenville, Rep. McFadden of Dennysville, Sen. Schneider of Penobscot, Sen. Weston of Waldo

Nine 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 Kenneth J. Hoeflick of Standish, for appointment to the Maine Community College System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#337)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Kenneth J. Hoeflick** of Standish for appointment to the Maine Community College System, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 728

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Lance Meadows of Penobscot, for appointment to the Maine Maritime Academy Board of Trustees.

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	1	Schneider of Penobscot
	Representatives	9	Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		3	Sen. Alfond of Cumberland, Rep. Sutherland of Chapman, Sen. Weston of Waldo

Ten 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 Lance Meadows of Penobscot, for appointment to the Maine Maritime Academy Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#338)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Lance Meadows** of Penobscot for appointment to the Maine Maritime Academy Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 729

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Dale J. Gordon of Caribou, for appointment to the Maine School of Science and Mathematics, Board of Trustees.

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	Alfond of Cumberland, Schneider of Penobscot
	Representatives	9	Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		2	Rep. Sutherland of Chapman, Sen. Weston of Waldo

Eleven 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 Dale J. Gordon of Caribou, for appointment to the Maine School of Science and Mathematics, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#339)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Dale J. Gordon** of Caribou for appointment to the Maine School of Science and Mathematics, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 730

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Craig Kesselheim of Southwest Harbor, for appointment to the Maine School of Science and Mathematics, Board of Trustees.

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:



Ten 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 Angela M. Bechard of Monmouth, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#341)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Angela M. Bechard** of Monmouth for appointment to the State Board of Education was **CONFIRMED**.

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

The Following Communication: S.C. 732

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 22, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Dorothy P. Martin of Fort Fairfield, for appointment to the State Board of Education.

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	1	Schneider of Penobscot
	Representatives	9	Casavant of Biddeford, Finch of Fairfield, Johnson of Greenville, Lovejoy of Portland, McFadden of Dennysville, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		3	Sen. Alfond of Cumberland, Rep. Sutherland of Chapman, Sen. Weston of Waldo

Ten 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 Dorothy P. Martin of Fort Fairfield, for appointment to the State Board of Education be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#342)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Dorothy P. Martin** of Fort Fairfield for appointment to the State Board of Education was **CONFIRMED**.

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

The Following Communication: S.C. 722

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Samuel W. Collins of Caribou, for appointment to the University of Maine System, Board of Trustees.

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	Alfond of Cumberland, Schneider of Penobscot
	Representatives	8	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Lovejoy of Portland, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		3	Rep. Johnson of Greenville, Rep. McFadden of Dennysville, Sen. Weston of Waldo

Ten 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 Samuel W. Collins of Caribou, for appointment to the University of Maine System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#343)**

YEAS: Senators: None

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

Representatives 7 Sutherland of Chapman, Casavant of Biddeford, Lovejoy of Portland, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston

NAYS 0

ABSENT 4 Rep. Finch of Fairfield, Rep. Johnson of Greenville, Rep. McFadden of Dennysville, Sen. Weston of Waldo

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Samuel W. Collins** of Caribou for appointment to the University of Maine System, Board of Trustees was **CONFIRMED**.

Nine 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 Benjamin D. Goodman of Kennebunk, for appointment to the University of Maine System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

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

**READ and ORDERED PLACED ON FILE.**

The Following Communication: S.C. 723

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** be overridden?"

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 2010

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

The Doorkeepers secured the Chamber.

Dear Madame President:

The Secretary opened the vote.

**ROLL CALL (#344)**

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 Education and Cultural Affairs has had under consideration the nomination of Benjamin D. Goodman of Kennebunk, for appointment to the University of Maine System, Board of Trustees.

YEAS: Senators: None

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

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 Alfond of Cumberland, Schneider of Penobscot

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Benjamin D. Goodman** of Kennebunk for appointment to the University of Maine System, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 724

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of M. Michelle Hood of Bar Harbor, for appointment to the University of Maine System, Board of Trustees.

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	Alfond of Cumberland, Schneider of Penobscot
	Representatives	8	Sutherland of Chapman, Casavant of Biddeford, Finch of Fairfield, Lovejoy of Portland, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		3	Rep. Johnson of Greenville, Rep. McFadden of Dennysville, Sen. Weston of Waldo

Ten 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 M. Michelle Hood of Bar Harbor, for appointment to the University of Maine System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#345)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **M. Michelle Hood** of Bar Harbor for appointment to the University of Maine System, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 725

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

March 19, 2010

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

Dear Madame President:

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 Education and Cultural Affairs has had under consideration the nomination of Victoria M. Murphy of Portland, for reappointment to the University of Maine System, Board of Trustees.

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	Alfond of Cumberland, Schneider of Penobscot
	Representatives	7	Sutherland of Chapman, Casavant of Biddeford, Lovejoy of Portland, Nelson of Falmouth, Rankin of Hiram, Richardson of Carmel, Wagner of Lewiston
NAYS		0	
ABSENT		4	Rep. Finch of Fairfield, Rep. Johnson of Greenville, Rep. McFadden of Dennysville, Sen. Weston of Waldo

Nine 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 Victoria M. Murphy of Portland, for reappointment to the University of Maine System, Board of Trustees be confirmed.

Signed,

S/Justin L. Alfond  
Senate Chair

S/Patricia B. Sutherland  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **EDUCATION AND CULTURAL AFFAIRS** 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 (#346)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Victoria M. Murphy** of Portland for reappointment to the University of Maine System, Board of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 721

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 22, 2010

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

Dear Madame President:

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 Insurance & Financial Services has had under consideration the nomination of Mila Kofman of Augusta, for reappointment as the Superintendent of Insurance.

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	Bowman of York, McCormick of Kennebec
	Representatives	10	Treat of Hallowell, Beaudoin of Biddeford, Beck of Waterville, Fossel of Alna, Goode of Bangor, Legg of Kennebunk, Morrison of South Portland, Priest of Brunswick, Richardson of Warren, Weaver of York

NAYS 0

ABSENT 1 Sen. Alfond of Cumberland

Twelve 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 Mila Kofman of Augusta, for reappointment as the Superintendent of Insurance be confirmed.

Signed,

S/Peter B. Bowman  
Senate Chair

S/Sharon A. Treat  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** 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 (#347)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Mila Kofman** of Augusta for reappointment as the Superintendent of Insurance was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber Mila Kofman. Would she please rise and accept the congratulations of the Maine Senate.

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The Following Communication: S.C. 720

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 22, 2010

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

Dear Madame President:

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 Insurance & Financial Services has had under consideration the nomination of William N. Lund of Portland, for reappointment as the Superintendent of the Bureau of Consumer Credit Protection.

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:



Eleven members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Honorable Lloyd P. LaFountain, III of Biddeford, for reappointment as the Superintendent of the Bureau of Financial Institutions be confirmed.

Signed,

S/Peter B. Bowman  
Senate Chair

S/Sharon A. Treat  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** 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 (#349)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 the Honorable **Lloyd P. LaFountain, III** of Biddeford for reappointment as the Superintendent of the Bureau of Financial Institutions was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the chamber the Honorable Lloyd P. Lafountain. Would he please rise and accept the congratulations of the Maine Senate.

The Following Communication: S.C. 717

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

March 22, 2010

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

Dear Madame President:

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 Judiciary has had under consideration the nomination of Peter L. Darwin of Portland, for appointment as a District Court Judge.

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	3	Bliss of Cumberland, Hastings of Oxford, Hobbins of York
	Representatives	8	Priest of Brunswick, Beaulieu of Auburn, Bryant of Windham, Crockett of Bethel, Hill of York, Kruger of Thomaston, Nass of Acton, Stevens of Bangor
NAYS		0	
ABSENT		2	Rep. Cleary of Houlton, Rep. Dill of Cape Elizabeth

Rep. Mitchell of Penobscot Nation supports the Committee's recommendation.

Eleven 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 Peter L. Darwin of Portland, for appointment as a District Court Judge be confirmed.

Signed,

S/Lawrence S. Bliss  
Senate Chair

S/Charles R. Priest  
House Chair

**READ and ORDERED PLACED ON FILE.**

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

Signed,

S/Lawrence S. Bliss  
Senate Chair

S/Charles R. Priest  
House Chair

The Following Communication: S.C. 718

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

March 22, 2010

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

Dear Madame President:

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 Judiciary has had under consideration the nomination of Ethna Mary Kelly of Falmouth, for appointment as a District Court Judge.

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	3	Bliss of Cumberland, Hastings of Oxford, Hobbins of York
	Representatives	8	Priest of Brunswick, Beaulieu of Auburn, Bryant of Windham, Crockett of Bethel, Hill of York, Kruger of Thomaston, Nass of Acton, Stevens of Bangor
NAYS		0	
ABSENT		2	Rep. Cleary of Houlton, Rep. Dill of Cape Elizabeth

Rep. Mitchell of Penobscot Nation supports the Committee's recommendation.

Eleven 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 Ethna Mary Kelly of Falmouth, for appointment as a District Court Judge be confirmed.

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** 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 (#350)**

YEAS: Senators: None

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

EXCUSED: Senators: GOODALL, SMITH

No Senator having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being excused, 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 **Ethna Mary Kelly** of Falmouth for appointment as a District Court Judge was **CONFIRMED**.

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

The Following Communication: S.C. 733

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND  
FORESTRY**

March 22, 2010

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

Dear Madam President and Madam Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Baxter State Park Authority under the State Government Evaluation Act. In its review, the Committee found that the Authority is operating within its statutory authority.

Sincerely,

S/Senator John M. Nutting  
Senate Chair

S/Representative Wendy Pieh  
House Chair

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

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**REPORTS OF COMMITTEES**

**House**

**Ought to Pass Pursuant to Joint Order**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Further Amend the Sex Offender Registration and Notification Act of 1999" (EMERGENCY)  
H.P. 1305 L.D. 1822

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 1234.

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

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

**READ ONCE**.

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

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**Ought to Pass Pursuant to Resolve**

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act Pertaining to Sales Tax Exemptions for Products Purchased for Agricultural Use"  
H.P. 1304 L.D. 1821

Reported that the same **Ought to Pass**, pursuant to Resolve 2009, chapter 25, section 3.

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

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

**READ ONCE**.

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

---

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Rights and Liabilities of the Supervisory Physician of a Physician Assistant"

H.P. 1112 L.D. 1574

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-732)**.

Signed:

Senators:

BLISS of Cumberland  
HOBBINS of York  
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick  
BRYANT of Windham  
CLEARY of Houlton  
HILL of York  
KRUGER of Thomaston  
STEVENS of Bangor  
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:

Representative:

DILL of Cape Elizabeth

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended Report**.)

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-732) AS AMENDED BY HOUSE AMENDMENT "A" (H-755)** thereto.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-732) **READ**.

House Amendment "A" (H-755) to Committee Amendment "A" (H-732) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-732) as Amended by House Amendment "A" (H-755) thereto, **ADOPTED**, in concurrence.

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

---

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Establish a Duty To Report Serious Injuries"  
H.P. 1235 L.D. 1738

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

Signed:

Senators:

BLISS of Cumberland  
HOBBINS of York  
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick  
BRYANT of Windham  
DILL of Cape Elizabeth  
KRUGER of Thomaston  
STEVENS of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-733)**.

Signed:

Representatives:

CLEARY of Houlton  
HILL of York  
NASS of Acton  
BEAULIEU of Auburn  
CROCKETT of Bethel

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

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

Reports **READ**.

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

---

**Senate**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Promote the Establishment of Innovative Schools" (EMERGENCY)

S.P. 706 L.D. 1801

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

Signed:

Senators:

ALFOND of Cumberland  
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman  
FINCH of Fairfield  
WAGNER of Lewiston  
LOVEJOY of Portland  
NELSON of Falmouth  
RANKIN of Hiram  
McFADDEN of Dennysville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-456)**.

Signed:

Senator:

WESTON of Waldo

Representatives:

JOHNSON of Greenville  
RICHARDSON of Carmel  
CASAVANT of Biddeford

Reports **READ**.

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)** Report.

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

Senator **ALFOND**: Thank you, Madame President. Ladies and gentlemen of the Senate, L.D. 1801 is an integral part of Maine's Race to the Top competitive grant proposal. We are, as we speak, writing this grant for \$100 million. This innovative legislation would allow us to continue to apply for this grant. If we didn't have this bill, it would be a pretty big blow to our application process. This bill truly gives our local schools something that we worked on last session, even more of an emphasis, which is multiple pathways to learn. Innovative schools are an important piece of that. We know that not every student learns in a brick and mortar school that maybe many of us went to. Today we are looking at a bill that would allow our local communities to create innovative schools so that they could provide opportunities for students that might not be successful in their current situation. I truly ask the Body to look at this bill, support it, not only for our students, but for the application that is pending for \$100 million to the Race to the Top fund. Thank you, Madame President.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)** Report.

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**SECOND READERS**

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

**House**

Resolve, Regarding Legislative Review of Chapter 37: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY)

H.P. 1296 L.D. 1812

Bill "An Act To Implement Recommendations Concerning Domestic Violence and Parental Rights and Responsibilities"

H.P. 1298 L.D. 1814

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

---

**House As Amended**

Bill "An Act To Improve Oversight of Pharmaceutical Purchasing"

H.P. 940 L.D. 1339

(C "A" H-693)

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

H.P. 1130 L.D. 1592

(C "A" H-721)

Bill "An Act To Protect Health Care Consumers from Catastrophic Debt"

H.P. 1148 L.D. 1620

(C "A" H-664)

Bill "An Act To Avoid Unnecessary Removal of Land from the Maine Tree Growth Tax Law Program" (EMERGENCY)  
H.P. 1163 L.D. 1635  
(C "A" H-751)

Bill "An Act To Clarify the Enforcement Role of the Mixed Martial Arts Authority of Maine"  
H.P. 1186 L.D. 1685  
(C "A" H-753)

Bill "An Act To Expand the Opportunity for Persons To Acquire Health Care Coverage under the State's 'Mini-COBRA' Program"  
H.P. 1209 L.D. 1708  
(C "A" H-747)

Bill "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses" (EMERGENCY)  
H.P. 1218 L.D. 1717  
(C "A" H-745)

Bill "An Act To Strengthen Collection of Unredeemed Beverage Container Deposits" (EMERGENCY)  
H.P. 1263 L.D. 1774  
(C "A" H-717)

Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions"  
H.P. 1280 L.D. 1792  
(C "A" H-750)

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

---

Bill "An Act Regarding Document Fees at County Registries of Deeds"  
H.P. 1096 L.D. 1554  
(S "A" S-449 to C "A" H-669)

**READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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**Senate As Amended**

Bill "An Act To Adopt the Common Core State Standards Initiative" (EMERGENCY)

S.P. 705 L.D. 1800

(C "A" S-423)

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

Sent down for concurrence.

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

On motion by Senator **SIMPSON** of Androscoggin, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed, in concurrence.

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**ENACTORS**

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Senate at Ease.

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

Senate called to order by the President.

**Act**

An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Federally Designated Class I Areas

S.P. 627 L.D. 1662  
(C "A" S-402)

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

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**ORDERS OF THE DAY**

**Unfinished Business**

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

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

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

Resolve, Directing the Maine Human Rights Commission to Report on Improvements

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

**PAPERS FROM THE HOUSE**

**House Papers**

Bill "An Act To Decriminalize Violations of Rules or Permit Conditions of the Baxter State Park Authority" (EMERGENCY)  
H.P. 1310 L.D. 1824

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 9, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)**, in concurrence.)

(In House, March 11, 2010, **FINALLY PASSED**.)

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and ordered printed.

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

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662)**, in concurrence.

On motion by Senator **NUTTING** of Androscoggin, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

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Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 187-189 State Street, Augusta, Known as the Smith-Merrill House, and at 159 Hogan Road, Bangor, known as the Elizabeth Levinson Center  
H.P. 1311 L.D. 1825

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-662), in concurrence.

Committee on **STATE AND LOCAL GOVERNMENT** suggested and ordered printed.

On further motion by same Senator, Senate Amendment "A" (S-457) to Committee Amendment "A" (H-662) **READ**.

Comes from the House, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, this is another of those small but important

amendments that removes the authority of the committee of jurisdiction from reporting out legislation as the result of reports in the new legislative session.

On motion by Senator **BLISS** of Cumberland, Senate Amendment "A" (S-457) to Committee Amendment "A" (H-662) **ADOPTED**.

Committee Amendment "A" (H-662) as Amended by Senate Amendment "A" (S-457) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-662) AS AMENDED BY SENATE AMENDMENT "A" (S-457) thereto, in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/17/10) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Make Corrections to the Life Settlement Laws"

H.P. 1073 L.D. 1523

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

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

Tabled - March 17, 2010, by Senator **BOWMAN** of York

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

(In House, March 16, 2010, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, March 17, 2010, Reports **READ**.)

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, L.D. 1523, sometimes called the STOLI bill, clarifies the definition of stranger-originated life insurance, or STOLI. STOLI is a practice where someone unrelated to you takes out a policy on your behalf and receives payment when you die and pays your premiums. The practice is prohibited in the State of Maine because it can result in fraud and a motive for other crimes. The body of people who are particularly affected by this are the elderly. Maine law does allow other life settlements, or what are called viatical settlements, that pay policyholders upfront for the value of their policies, but it strictly regulates these to protect consumers. Our current law lists 10 different types of products that are allowed. L.D. 1523 is the Insurance Superintendent's bill. It was introduced because the top lawyers in the Bureau of Insurance were concerned that language in our current law enacted just last year could allow some practices that were intended to be prohibited and at the very least, would result

in ambiguity, litigation, and cost to the Bureau. The bill also exempts credit life insurance policies and policies with death benefits less than \$100 from the requirement that they inform policyholders about lawful life settlement options. L.D. 1523 removes a vague clause from the Maine law, and that clause is 'other lawful settlement transactions.' It is unclear what these transactions would or could be, although there are some examples in other states that we can see. The majority of the Insurance Committee agreed with the Superintendent that the words add ambiguity that could result in unlawful activity and litigation. According to a letter from Superintendent Coffman, last year's legislation created vagueness that is likely to result in lawsuits challenging the Bureau's authority to regulate and enforce the law, therefore we need to do something about this. L.D. 1523 addresses a real problem. In some other states the life settlement industry has filed lawsuits to prevent insurance regulators from protecting consumers. Florida is a good example of that and the sheer amount of lawsuits and other legal tactics have placed a tremendous strain on the office resources from the Department of Insurance in Florida. This bill is supported by the National Association of Insurance and Financial Advisors in Maine, an organization of over 300 Maine life insurance agents, the American Council of Life Insurers, State Farm, and the UNUM Company. One of the criticisms that you will hear from people that are opposing this bill is that it hasn't been given a chance to work. I believe in medicine, flying airplanes, and driving submarines. You don't wait until you get sick. You don't wait until the plane crashes. You don't wait until the submarine gets to the bottom and has a problem. You act when you see something wrong. I would suggest to you that that argument is specious, and I thank you for your consideration.

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

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, as the Senator from York, Senator Bowman just said, just last year this Legislature passed a bill on life settlement transactions. The bill was brought forward by the Bureau of Insurance and it received unanimous Committee support. This bill, in the current motion, proposed to change the language of that bill and my objection in opposition to the current motion is simply why are we in such a hurry to change this law? This bill has barely been in effect six months. Since we passed our bill last year four other states basically adopted the same language. We've recently heard a fifth state is considering it. In fact, two of the states that adopted it, California and New York, are the largest life insurance markets in the country. The Senator thinks it's not a good argument, but there have been no problems brought forward or complaints to our Bureau of Insurance, and I just say let's give this law a chance to work and I urge you to oppose the pending motion. Thank you, Madame President.

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

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, it is very seldom that I would stand up to

speak in opposition to the Senator from York, Senator Bowman, but in this case I must. Viaticals, or life settlements, really came about because of AIDS. When AIDS first made its approach on the public awareness it was a done deal, it was a death sentence. They had not come up with the cocktails that would allow them to continue. In order for AIDS people to be able to live the six or seven months, people would come in and they would buy up the insurance, agree to pay for it, and give the AIDS victim more money than they could get in a cash surrender settlement with life insurance companies. They would give that to the AIDS person up front and they were able to live a little better quality of life. As a freshman assigned to what at that time was Banking and Insurance, I had never heard the word viatical, but I thought it was fun to say, it has that roll off your tongue. It wasn't a very pretty thing to talk about and never did I realize that it would become another way later, as AIDS continued and we made fast advancements. We dealt with this several times and I've put bills in, and it has now become in many ways, part of a way for people to plan for their future. Normally it is with large settlements, \$1 million on your life. I don't have that, I don't understand \$1 million. STOLI, by the way, is when a stranger takes an interest in your life. They're not related to you at all, but they're basically going to wait for you to die. That's wrong. It's just wrong. The law's been in effect for less than five months, and we are here trying to change it. I might say that that law last year was a unanimous report that was a compromise. When I spoke to someone earlier about the compromise, they said, 'yes, but we did it too quickly and we don't like the way the compromise worked.' I'm not sure that's acceptable. If we had taken school consolidation, L.D. 1, and kept making changes five months, six months after it, it never would have worked. Everybody wants to go back to the way it was if you're on the side that decided it didn't like the compromise. I have also, many times, attended NCOIL, National Conference of Insurance Legislators, and they are coming up with a lot of language that uses ours. That's sort of like the NCSL, only of insurance regulators. I would ask you to give this time. There's not been one complaint. I've heard so many times on the floor of this chamber and the chamber at the other end of the hall, this is a solution looking for the problem. Five months into something, a solution looking for the problem. I've had something handed out, I believe it might be red and it might be in color, I'm not sure, but my copy is. On the back side it talks about the Bureau of Insurance and they have given some of the settlements that have been done. You can see that one was \$1.2 million and what was paid was actually \$290,000. This is a way for consumers to make a choice in their health care, their own choice. For consumers, not for strangers just interested in something else. I would ask you to truly consider that it is a way to get much more out of the cash surrender value of your policy if you need that money. Take a look at your own life insurance and see what the cash surrender value is compared to the face amount. Only about 10 % of life insurance policies, by the way, are ever cashed at full value. It's a great way to make money. It's not a great way for the person being insured. I would ask you to not find a solution in search of the problem, and that you allow this to go on and give it a chance. If it truly doesn't work, let's bring it back next year, whoever is here, if we have history that this didn't work. In the meantime, I think we're serving our consumers very well, our Maine people, very well with a law that was passed as a compromise last year. Thank you.

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

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, I'm reminded of a statement someone said to me once, 'I have great investments, but I have to die to get them.' I would like to pose a question through the Chair.

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

Senator **WESTON:** Thank you, Madame President. The passage of this bill, will that restrict or increase opportunities for the consumers in this state?

**THE PRESIDENT:** The Senator from Waldo, Senator Weston 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. Men and women of the Senate, my reading of the bill is that it would increase the opportunities for some of the less palatable companies to come into the state without being regulated and sell products to Maine consumers that we really ought not to be allowing in this state. I think it opens the barn door and we ought to close that door while there's still time to do so.

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

Senator **ALFOND:** Thank you, Madame President. Ladies and gentlemen of the Senate, I couldn't agree more with the good Senator from Somerset. I'm only a freshman, and we heard the Senator behind me talk about her freshman year, but I know from talking to all of you that historically a number of bills between the first and the second session are corrected. This is another opportunity to do that. Here is the state regulator asking us to remove what she and her attorneys believe to be vague and ambiguous language. If we do not repeal this language, the Superintendent believes that her ability to protect our constituents will be seriously compromised. I would ask you to support the pending motion. Thank you, Madame President.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, if I may. There are potentially huge amounts of money at stake in these transactions and nowhere is that better illustrated than the handout from the people that are opposing the passage of this bill. These transactions, because they're so significant and because there is so much risk to the consumer involved in these transactions, they are actually reported to the Superintendent of Insurance so that she may track them, monitor them, and oversee them. This statute was passed several years ago in the face of the AIDS crisis, but frankly from the marketplace, the viatical statute in Maine is about seven or eight pages long and there are lots of procedures in it, and the thing is replete with protections for the consumer. This whole idea of selling off your life insurance before you die runs counter to a thousand years of history of insurance practice. It has always been true in common law for hundreds of years that I'm

not allowed to go buy an insurance policy on another fellow Senator unless I have an insurable interest in that person's life. If I'm married to the other Senator, that's fine. If it's a business and we want to insure the life of somebody who is a key person in the management of that business, then the business has an insurable interest in that person's life. If there's a stranger who takes a look at you and says, 'I think you're a little peaked, and I'm going to take a gamble that you're going to croak in the next two or three years and I'm going to buy a long-term policy on your life from an unsuspecting life insurance company.' We don't allow that, but we do allow this thing called a viatical settlement which is new, brand new to the industry in the last decade or so, which says that if you buy a life policy legitimately, with full intentions of using it to protect your family or your business, and you get a little peaked later and decide that you'd like to cash it in, you should have some options. One of those options might be to cash in the cash value from the life insurance company, but you also have the option of doing business with one of these viatical settlement companies and saying would you give me part of my settlement of my death benefit while I'm living? As these transactions disclose, you get a very small part of it. In these transactions, literally one-third of the face value of the policy has been given to the person who is going to die. The viatical company merely has to wait until you're dead and they pick up a profit margin of three to one. These are the recorded transactions. This is a very sensitive transaction and industry. We have this language in front of us that has five words that are raising the controversy that we're debating this morning. And if this is any precursor, I can't wait for saltwater fishing to come up because those are my two favorite causes this year in terms of complexity. Really it boils down to five words. Somehow in the statute from last year there were injected these words: 'or other lawful settlement transactions.' The effect of those words will be to allow settlement companies to come in and challenge the authority of the Superintendent of Insurance to impose the regulations that we had passed years ago to give these viatical settlement companies the right to do business here. I think that's what this is all about. If we can get rid of those few words, these viatical settlements will still go forward, they will be regulated, they will be recorded, and Maine consumers will be protected. There is nothing in this bill that in any way limits the ability of these viatical settlement companies to go ahead and make these offers of we'll give you a third now and we'll get the whole of it later when you die. That's okay, we're legitimizing those transactions. They still will be legitimate, but at the very least, shouldn't we allow the Superintendent of Insurance the latitude to examine these transactions, and in her judgment and in the judgment of her staff where it's necessary, to impose some regulations or maybe further regulations without being challenged, saying, 'hey, we've got these five words here that deprive you of the authority to regulate.' I don't think we should be doing that. I don't like vague statutes, I don't like long statutes. This one is not too long, but it's extremely vague and when you have somebody arguing that they like the vagueness, it should send up a red flag. I urge you to vote yes on this bill for that reason, to get rid of these five words.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, when somebody buys a life insurance policy at the ripe old age of 25, does that forbid them to then sell

that policy later? I would pose that question to anybody who cares to answer. In other words, when I say sell, I mean enter into a viatical for whatever reason. Could I go and under this law as it is, could I buy the insurance policy and later when things change and I decide I want to enter into a viatical because I married well and I have all this money and all or whatever. I did marry well, we didn't have money to go along with it.

**THE PRESIDENT:** Is the Senator posing a question? What is the question?

Senator **SULLIVAN:** I was just thinking about my marriage, I'm sorry. That's a much nicer thought. Are they forbidden to enter a viatical with the statement that they will never use this as part of their financial planning?

**THE PRESIDENT:** The Senator from York, Senator Sullivan poses a question through the Chair to anyone who may wish to answer.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Bowman to Accept the Majority Ought to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#351)**

**YEAS:** Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, GERZOFSKY, GOOLEY, HASTINGS, HOBBS, JACKSON, MILLS, NUTTING, PLOWMAN, RECTOR, SIMPSON, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

**NAYS:** Senators: COURTNEY, DAMON, DAVIS, DIAMOND, MARRACHE, MCCORMICK, NASS, PERRY, RAYE, ROSEN, SCHNEIDER, SHERMAN, SULLIVAN, WESTON

**EXCUSED:** Senators: GOODALL, SMITH

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **BOWMAN** of York to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

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

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The Chair laid before the Senate the following Tabled and Later (3/17/10) Assigned matter:

SENATE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow the Electronic Registration of Big Game Animals" (EMERGENCY)  
S.P. 656 L.D. 1723

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-421)** (2 members)

Tabled - March 17, 2010, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **BRYANT** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

(In Senate, March 17, 2010, Reports **READ**.)

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise just briefly to tell you why I did oppose this bill and why I ask that this Chamber reject this motion and move on and just kill this bill altogether. What we're talking about doing here is allowing hunters to harvest an animal, take it to their home, and then tag that animal on-line. We have laws around this issue or concern. This is targeted right now at turkeys, but could be expanded later. It is illegal to harvest a turkey with a rifle. One concern that I had was you could illegally shoot the animal, and you'd now have by statute the ability to take it to your home and then tag it on-line. I think that this would open up an area of potential poaching that I'm not interested in visiting. The second reason is, this bill if we adopted it, would have a fairly sizable fiscal note at a time when Inland Fisheries and Wildlife is already in financial trouble. It appears that, according to the fiscal note, there would be about a \$40,000 impact to the Department and I don't think we can sustain that right now. We're just barely keeping our nose above water. For that reason I would oppose this bill, but I certainly appreciate the intent of the folks that are on the other side of the issue, but I just don't think this is appropriate at this time. Thank you.

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

Senator **BRYANT:** Thank you, Madame President. Ladies and gentlemen of the Senate, to go back a little bit, electronic tagging is done in a number of different states. Last year in the actual budget that the Department brought forward, they had electronic tagging for all the big game animals and we took that out because we didn't want to lose the tagging stations in the State of Maine. We wanted to allow that system to go forward. What this bill tries to do is start down that road of electronic tagging and give the sportsmen an opportunity to harvest the animal and either phone it in or use the Internet to register that animal. It would allow a pilot program to start moving forward so you'd have some opportunities to explore that before you went into larger animals. I think it's a good idea and it's going to happen at some point. We need to move forward on it and I would encourage you to vote for it.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#352)**

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

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

EXCUSED: Senators: GOODALL, SMITH

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **BRYANT** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-421) **READ** and **ADOPTED**.

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

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The Chair laid before the Senate the following Tabled and Later (3/17/10) Assigned matter:

SENATE REPORTS -from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow a Maine-chartered Financial Institution To Conduct a Savings Promotion Raffle"

S.P. 645 L.D. 1673

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (S-417)** (10 members)

Report "B" - **Ought Not to Pass** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (S-418)** (1 member)

Tabled - March 17, 2010, by Senator **BOWMAN** of York

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417)**

(In Senate, March 17, 2010, Reports **READ**.)

Senator **BOWMAN** of York requested and received leave of the Senate to withdraw his motion to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417)**.

On further motion by same Senator, Report "**C**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-418)**, **ACCEPTED**.

**READ ONCE**.

Committee Amendment "B" (S-418) **READ** and **ADOPTED**.

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

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

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

H.P. 1266 L.D. 1779

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

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

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

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

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

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

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

Senator **BOWMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, Maine law currently prohibits surcharges on credit cards. This bill merely extends this prohibition to debit cards. Maine has prohibited surcharges on the use of credit cards since 1981. At that time, of course, debit cards did not exist so this should be treated as a technical amendment by adding, 'or debit card' to existing law. Debit cards now account for more transactions than do credit cards. One of the core tenets of the consumer experience is that the stated price of an item as advertised is the actual price paid at check-out. This fundamental consumer protection has been recognized by governing bodies all around the world. Maine provides a number of state benefits in the form of debit cards now, such as food stamps, unemployment, and others. If retailers are allowed to surcharge debit cards, this could rob state resources at the

worst possible time, from the most vulnerable part of our population. Some retailers are advocating the ability to impose surcharges on consumers who use their credit or debit cards. Keep in mind these same retailers receive large benefits from electronic payments. Lines move faster because customers don't have to pull out their checkbook or fumble for cash. Customers spend more, or they tend to, and retailers get paid without having to wait and wonder whether a check will clear or have to worry about cash theft. Payment with a debit card is a less expensive method of payment than accepting a check. I urge you to vote for this bill. Thank you.

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

Senator **ROSEN:** Thank you, Madame President. Men and women of the Senate, I'd like to talk a little bit about credit card charges. I remember when I was a high school student working in our family's retail clothing store when the folks from VISA came around with the idea and said, 'we've got a great new concept for you. Right now there are credit cards, but it's pretty much limited to the business traveler and they use a credit card for purchasing airline tickets and the hotel room and meals, and that is pretty much it.' They said, 'we've come up with a way essentially to extend easy credit to all consumers, but we need a broad base of retailers to be willing to come into the picture, it can't just be limited to airlines and restaurants.' So they said, 'here's the deal. We'll sign you up and you accept this credit card and there will be a transaction fee, and the fee's relatively straightforward. It's based on two elements: overall volume and number of purchases. So if you're a jewelry store and you have a half a million in sales but your average ticket price is say \$100, you would pay a little less in processing than if you were, at the time, a five and dime store that also had half a million in sales, but lots of small transactions of a dollar or two or three or four or five.' That was basically it. But then over the years, our friends at VISA and some of the other processors began to appreciate that the fees themselves could really be a significant profit center. Rather than just charge a fee for the cost of processing and this convenience, we could charge a number of different fees as we began to gain market power, and we now are big enough and we can control enough of the transactions that are taking place, that the consumer can't do without us and that the retailer of the business that sells whatever goods and services it might be, or the state, or whoever uses it for processing, they can't do without us either. So we'll start adding more and more fees. The great thing is that as the Senator from York indicated, the law already prohibits merchants from passing along those fees, so the consumer never sees it, so you have to eat it. Just for example, looking at my own monthly processing fee statements from that one little simple charge that I described when this all started, here's a typical monthly statement of fees for receiving VISA. There's the VISA mid-qualifying sales transaction fee. There's the non-qualifying sales transaction fee. There's the sales charge fee. There's the VISA mid-qualifying sales charge fee. There's the VISA non-qualifying sales charge fee, and the debit card sales charge fee along with the VISA watch authorization fee. The VISA authorization processing fee, and the VISA sales transaction fee. It's been really just a great profit center for these folks, and of course they've discovered that it's very fruitful to encourage any number of high school students, college students or whoever, to sign up for credit cards because that again has

been another deep profit center to have folks incur more debt than they can afford, assess the fees on the recipient, and then allow the unpaid balances to be assessed on the merchant side of the business. I'm not saying that these folks are blood sucking parasitic loan sharks. I'm not saying that. I wouldn't say that, but darn close. Now we have a bill from the industry that's being peddled around to a variety of states to say, 'we want to extend the prohibition of the merchant's ability to pass along a surcharge based on what we the processor charges you onto debit cards. We want that prohibition now to extend to debit cards.' At the hearing, the Superintendent of Insurance indicated that there have been no complaints in the state, and there has been no indication that people are even passing along that charge onto the consumer, pretty much because competitive pressure really wouldn't allow it. If one merchant chooses to and someone else won't, the ad will say that they will incorporate the charges. The point is that this is a pro-VISA bill being peddled around many states, and it is not useful or helpful in my opinion to the consumer or to the small businesses in this state. I think it takes away the ability for transparency, and I think it is important for consumers to understand that there are a variety of fees that do impact the choices that they make and that they have the ability to see that in a way that provides greater transparency so they can make intelligent consumer choices. I would urge you to oppose the pending motion. Madame President, I would request the yeas and nays.

On motion by Senator **ROSEN** of Hancock, 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 Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you, Madame President. Men and women of the Senate, I'll attempt to follow Senator Rosen's remarks and try to be brief. I rise in opposition to the current motion. Frequently it's difficult to tell much about a bill just by its title or reading the summary, but after the public hearing on L.D. 1779 which claims to prohibit surcharges on the use of debit cards, it became obvious that this bill sounded a lot more important than it really was. First of all, no one is currently applying or attempting to apply, surcharges to debit cards. In fact, the contracts between retailers and the banks and credit card issuers like VISA, expressly prohibit these surcharges, as you have heard from a person who has personal experience in his retail business. Further, there have been no complaints of such charges reported to our Bureau of Banking. It turns out VISA is the source of this legislation, and as Senator Rosen has said in his testimony, if this is not in response to problems connected with debit cards, what is the intent of this legislation? This bill is simply, as Senator Sullivan has called the previous bill, a solution in search of a problem. I would like to comment about something brought to the floor last week by Senator Brannigan from Cumberland, when he expressed concern that he'd received a listing of bills that the MERI organization was tracking, but they didn't indicate whether they were opposed to or supportive of the bills. Since this bill is one of those on their watch list, I thought I would take it upon myself to find out for the good Senator from Cumberland and it turns out they are opposed to L.D. 1779. I urge you to defeat the pending motion. Thank you, Madame President.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, as we've heard, this bill is not about correcting a wrong that's now existing, even if it's perceived to be a wrong. This, in my opinion, is all about eliminating or taking the consumer out of the argument. There's no question that these fees are huge, cumulatively. VISA and MasterCard make billions and billions of dollars on it. There can be no question also that ultimately those fees have to be reabsorbed into the pricing of goods and services. If you want to have a full discussion of these fees and how they should be allocated, there are three parties to it. We have the merchant, we've got the credit card company that provides the service, and we've got the consumer who pays the fee ultimately one way or another. This bill is a pre-emptive strike to take the consumer out of the argument. The consumer never sees the fee, and if it can't be charged then the consumer would never know that the fee hardly even exists. They don't see the impact on the pricing. If you have a three-sided argument, you might well decide that maybe a merchant should be able to offer a cash discount, that's part of the argument because they don't have to pay the fee. I think this is really just a pre-emptive attempt to eliminate the consumer as an interested party and stakeholder at the table when these fees are discussed in the broader policy arena. Thank you very much.

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

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Off Record Remarks

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

HOUSE REPORT - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Clarify Exemptions in the Milk Handling Fee" (EMERGENCY)  
H.P. 1276 L.D. 1788

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-737)**

Tabled - March 22, 2010, by Senator **BARTLETT** of Cumberland

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

(In House, March 18, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-737).**)

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

Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-737) **READ**.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-458) to Committee Amendment "A" (H-737) **READ**.

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

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, this amendment simply clarifies, like we've seen with some other bills, and removes from the Committee Amendment the ability of the Committee to submit a bill to the next Legislature, the 125<sup>th</sup>. This is a unanimous Committee Report and this Amendment just takes that one little piece out. Thank you.

On motion by Senator **NUTTING** of Androscoggin, Senate Amendment "A" (S-458) to Committee Amendment "A" (H-737) **ADOPTED**.

Committee Amendment "A" (H-737) as Amended by Senate Amendment "A" (S-458) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

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 **TAXATION** on Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2010-11" (EMERGENCY)  
H.P. 1294 L.D. 1807

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-758)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-758) AND HOUSE AMENDMENT "A" (H-771)**.

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

**READ ONCE.**

Committee Amendment "A" (H-758) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-771) **READ** and **ADOPTED**, in concurrence.

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

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

Off Record Remarks

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

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

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

Senator **DAMON** of Hancock was granted unanimous consent to address the Senate off the Record.

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BARTLETT** of Cumberland, **RECESSED** until 3:30 in the afternoon.

After Recess

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve the Laws Governing the Consolidation of School Administrative Units"

H.P. 408 L.D. 570

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-768)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-768)**.

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

**READ ONCE.**

Committee Amendment "A" (H-768) **READ** and **ADOPTED**, in concurrence.

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

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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 **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization (EMERGENCY)

H.P. 1270 L.D. 1780

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-770)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-770)**.

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

**READ ONCE.**

Committee Amendment "A" (H-770) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **NATURAL RESOURCES** on Bill "An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws"  
H.P. 1111 L.D. 1573

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-756)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-756)**.

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

**READ ONCE.**

Committee Amendment "A" (H-756) **READ** and **ADOPTED**, in concurrence.

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Amend Certain Provisions of Fish and Wildlife Laws"

S.P. 615 L.D. 1650  
(S "B" S-412 to C "A" S-388;  
S "B" S-452)

In Senate, March 23, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) AS AMENDED BY SENATE AMENDMENT "B" (S-412)** thereto **AND SENATE AMENDMENT "B" (S-452)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-388) AND HOUSE AMENDMENT "A" (H-774) AND SENATE AMENDMENT "B" (S-452)**, in **NON-CONCURRENCE**.

On motion by Senator **BRYANT** of Oxford, the Senate **RECEDED** and **CONCURRED**.

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

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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 **JUDICIARY** on Bill "An Act To Establish a Duty To Report Serious Injuries"  
H.P. 1235 L.D. 1738

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-733)** (5 members)

Tabled - March 24, 2010, by Senator **BLISS** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, March 23, 2010, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 24, 2010, Reports **READ**.)

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Promote the Establishment of Innovative Schools" (EMERGENCY)  
S.P. 706 L.D. 1801

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-455)** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (S-456)** (4 members)

Tabled - March 24, 2010, by Senator **RAYE** of Washington

Pending - motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)** Report

(In Senate, March 24, 2010, Reports **READ**.)

On motion by Senator **ALFOND** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-455)** Report, **ACCEPTED**.

**READ ONCE.**

Committee Amendment "A" (S-455) **READ** and **ADOPTED**.

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

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

Resolve, Directing the Commissioner of Professional and Financial Regulation To Study the Complaint Resolution Process  
H.P. 1136 L.D. 1608  
(C "A" H-658)

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

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 9, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658)**, in concurrence.)

(In House, March 11, 2010, **FINALLY PASSED**.)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658)**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-658), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-438) to Committee Amendment "A" (H-658) **READ**.

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

Senator **BARTLETT:** Thank you, Madame President. Men and women of the Senate, this amendment continues in a long line of simply removing the authority to move out legislation from the bill. Thank you.

On motion by Senator **BARTLETT** of Cumberland, Senate Amendment "A" (S-438) to Committee Amendment "A" (H-658) **ADOPTED**.

Committee Amendment "A" (H-658) as Amended by Senate Amendment "A" (S-438) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-658) AS AMENDED BY SENATE AMENDMENT "A" (S-438)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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The Chair laid before the Senate the following Tabled and Later (3/17/10) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow the Town of Wells and the Town of Ogunquit To Amend the Terms of Their Cost-sharing Agreement for Their Community School District and To Provide Each Town the Ability To Withdraw from the Wells-Ogunquit Community School District"

S.P. 670 L.D. 1747

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-422)** (5 members)

Tabled - March 17, 2010, by Senator **ALFOND** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 17, 2010, Reports **READ**.)

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

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 York, Senator Nass.

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, it seems like we've been waiting two weeks for this debate and I'm not sure I'm any more prepared than I was in the beginning. If you're fortunate enough to be driving north on U.S. Route One from the town of York north up to what is now Ogunquit and Wells, you come to a highway marker that recognizes your entry into Ogunquit. It's one of those white signs that says, 'established in 1981.' If you drive up a little bit further as you move up from Ogunquit going north into Wells there's another sign that says, 'established in 1646.' Inherent in my discussion today is going to be the dramatic difference between those two dates. For 340 years, the citizens of what once was the one community of Wells, have been educating their kids and doing a pretty good job of it, usually without much help from the State of Maine or Massachusetts before that in the beginning. For 340 years they've been worried about educating their kids. Thirty years ago there was a heated discussion and some of the folks that are here were around then, saying that it came to the legislature and in a Private and Special Law of the legislature agreed to the towns separating into a special school district, that were set up between what's now called Wells/Ogunquit CSD. I think it has a new name now, but it's still functioning as it did originally. The other bit of information I need to offer here is that Wells is a town of about 10,000 population, Ogunquit is six square miles and has a year-round population of about 1,500. This shows you the unequalness as far as size and population and how this happened. At the time this separation of the town would not have happened if it had not been for the agreement on school funding. Here we are 30 years later still talking about the funding of this district that was established by Private and Special Law. We've been debating this thing here on a fairly regular basis every couple of years and the outcome has not changed very dramatically. The agreement was that the folks

in Ogunquit could be their own town, but they had to continue to fund their share, as was defined then, of school funding. Their share was based on property value. I know that it's difficult for us to understand here, but we're talking about two very property-wealthy towns, Wells and Ogunquit. Over time there have been changes, but neither one of them has gotten any less wealthy.

It's hard for me to imagine that Wells Beach has somehow fallen behind, as far as appraised value, of the town of Ogunquit, but that's what happened. At the same time the number of students has gone in the opposite direction. Ogunquit's student count has gone down and Wells' has gone up. I guess you've got the perfect storm here. It's hard for most people in the state to understand. The agreement was that folks in Ogunquit could become their own town and for that they would continue to fund their share, as it was defined then, of school costs based on property value. Since then some of the folks in Ogunquit have not been satisfied with that, and that's not an unusual situation. There is one worse case here that came to this body a few years ago. I'm only going to talk about that as an example of what can happen and my contention is that it can happen to any of our communities. There are very few communities in this state that are homogeneous enough that there isn't what I refer to as a higher rent district in any community. Those people inevitably feel they pay more than their fair share, especially of school costs, because that's where most of our tax money goes. The worst example I can think of is Frye Island, and it has been referred to in some of the literature that's been distributed here. I was here, and some other folks were here, when Frye Island came in and asked to become their own town. Of course they always agree to pay their continuing fair share of school funding, in this case to SAD 6, one of our biggest districts in the state. So the legislature approved that request and the very next year they were in here asking to be relieved of that responsibility. They didn't even wait, as Ogunquit did, a couple of years to come back and ask for it, they did it the next year. The town they had separated from was appalled at that, as were the other towns in that school district. I'm suggesting that all of us, with some exception that I'm not aware of, are subject to this. To allowing the high rent district to separate because they want to be relieved of the cost of education. I think that's just wrong. It was wrong then and it's wrong now. We can't allow this to happen. Ogunquit has been at this for 30 years, they're here frequently, always about the same thing. I think that we need to bring this to an end here. The proposal in front of us does not end this. They will be back again, but today we need to vote against the Minority Report. The majority of the Education Committee is Ought Not to Pass, but in front of us now is the Minority Report, Ought to Pass. I'm saying to you that it's wrong. It's going to happen to you, and it's the wrong thing to do. We ought to be focused on education, the property taxes and how we pay for education largely. If the folks in Ogunquit or any place else want to propose to us some other way to fund education, then let's have a debate about that. Having been on the Taxation Committee for a long time and having talked about property taxes endlessly, I will tell you that you can look forever to find a better way to fund education, but you're going to end up with a property tax. As much as you might want to think that there's a better way to do it, in the end that's where it's going to come from. It still represents pretty much, not perfectly, but it represents the ability to pay. You might want to do something differently, but in the end it's going to be extremely difficult. If Ogunquit wants to do something different, and wants to be relieved of its responsibility, then they ought to bring that

into the legislature. If we can figure out a better way to do it then it ought to apply to everybody in the state, not just Ogunquit. Their tax rate is low, their contribution to education is low, and they want to make it lower. It's not right, we should not do it, and we should vote against this proposal. Thank you, Madame President.

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

Senator **BOWMAN:** Thank you, Madame President. Men and women of the Senate, in my mind this bill is about fairness, it's about equity, and it's about our job as legislators to detect problems and then do something about them. If we allow the elephant to stay in the room, the drunk that be on the floor, year after year, time after time, we're not doing our job. Before I set foot in the Senate I was enmeshed in this problem and I learned that it had preceded me by some time. Somewhat like what my good colleague from another part of York county has articulated to you, and if we don't do something about it this time around, I can tell you succeeding generations of senators and legislators will see this problem again. This is a Private and Special Law involved here, only the Legislature can create it and only the legislature can do something about it. My good colleague pointed out that a deal was struck in the early 1980s when the village of Ogunquit separated from the town of Wells. Times have changed, conditions change. Remember that saying that the only thing that is consistent in life is change. The Minority Report allows either town to withdraw after the year 2014. The per-pupil cost that Ogunquit pays is over \$80,000 per student. Do they get a Harvard education or a Yale education? The answer is clearly not. Do they get a good education? Yes, but the cost is exorbitant. If you look at the history as I have, of the negotiations, the talks between these two towns, all the creative work has been on the Ogunquit side. All of it. I can't remember whether it was formally written down or not, but those of you who have MBAs and study net present value, which takes future revenue streams and rolls them back into the present day value using a discount rate, that number has been worked out by the Ogunquit people and discussed with Wells and has been summarily rejected. In 1999 the Legislature suggested mediation and fact-finding and both towns hired a firm called Plimpton & Esposito, who concluded that relevant circumstances have changed over the 20 years in a manner of favoring Wells and disfavoring Ogunquit. The lack of bargaining power on the part of Ogunquit doomed mediation and would doom any future negotiation and is the reason why Ogunquit has returned to the Legislature again and again, seeking legislative relief, but that was to no avail. Other examples of the inequity is on the school committee for the CSD. There are three Wells representatives, and three Ogunquit representatives, but due to the weighted vote formula, the vote of one Wells member is greater than those three from Ogunquit. Even Richard Clark, the chairman of the Wells board of selectmen said on the 22<sup>nd</sup> of September of last year to the Ogunquit select board, 'if I were in your shoes, I'd do exactly the same thing as you are doing.' I urge you to support the Minority motion. Thank you.

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

Senator **WESTON:** Thank you, Madame President. Men and women of the Senate, I came into the Legislature in 1999 and this issue was one of the first that we addressed on the Education Committee. As I'm leaving in 2010, we are addressing the very same issue. Times have changed, but not enough to change the Legislature's point of view on this issue and I'll tell you why I think that's true. In the Committee, as we debated this, we talked about a prenup, and this was like a prenup. You received on your desks, buried, maybe thrown out, something from the good Senator from York in which he talks about myths and facts. He says that this is not like a prenup agreement. Well, he's really right, because you see, the divorce has already happened and it was an amicable divorce. The couple came to the legislature with an agreement, promises were made in total agreement. They asked this Legislature to do a Private and Special Law to allow their divorce with certain agreements pledged. This is not a prenup, the divorce has happened. What we're talking about today is the child support. Would we say to a mother because your husband has decided he doesn't want to support your children any longer, that things have changed and they have become more costly even though his income is greater? Do we say it's okay, we'll let you out of this and let you walk away from your child support promise? That's really what's happening here. When we discussed this in 1999, what was in the front of our minds in our discussion was the education of the children in Wells and Ogunquit. It was on the mind of those people in 1980 when they came here, because Wells was concerned about education and so was Ogunquit, and they came to an agreement. Part of the fact that we saw was that the Ogunquit median income is only \$47,000 and they're not rich and they can't afford this. When this was told to us in our Committee hearing I asked if this was only the year-round resident's income or does it represent all of the taxpayers in Ogunquit? It's only the year-round people. We all have districts that are wealthy, districts that are mostly summer people, our populations swell. So many of us do. Do we want to set a precedent where if you want to protect your money and you have fewer kids, we allow you to walk away from that responsibility? We don't tell the elderly who do not have children in school that they do not have to pay for school children to learn. I will tell you what a hardship it is for Ogunquit. Their school mil rate is 3.24. What are your towns? What is the state average? It's 7.56. Wells is 5.24. Is it a hardship? Hardly. Are there people there who would like to take the 50 students that they have and find a cheaper way to educate them? Yes. But I will take you back to the promise, and that promise for child support, for educational support, is one we will be breaking today if we support this motion. Can they come to some agreement? I think so, but just like any divorce, there has to be somewhat equal hurt to come to an agreement, and equal gain. They were very, very close to an agreement once, and I think they can find it again. I have a town in my community that brought a bill forward in the recent past asking to be allowed to leave the county because they thought they were paying more in taxes than they would if they went to another county. We all have towns, we all have towns that don't want to pay as much to the county or pay as much to the school district. We as a body are here to protect the education of every child in this state. I want Ogunquit and Wells to keep their promise of child support and come back when they have a plan that is better than walking away. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#353)**

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

NAYS: Senators: COURTNEY, DAVIS, GERZOFISKY, GOOLEY, HASTINGS, HOBBS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, SCHNEIDER, SHERMAN, SIMPSON, TRAHAN, WESTON

ABSENT: Senators: BRYANT, ROSEN

EXCUSED: Senators: GOODALL, SMITH

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators being absent and 2 Senators being excused, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/23/10) Assigned matter:

SENATE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Authorize a General Fund Bond Issue To Create a New Electronic Medical Records Infrastructure"

S.P. 675 L.D. 1761

Report - Ought to Pass As Amended by Committee Amendment "A" (S-445)

Tabled - March 23, 2010, by Senator **RAYE** of Washington

Pending - **ACCEPTANCE OF REPORT**

(In Senate, March 23, 2010, Report **READ**.)

Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-445) **READ** and **ADOPTED**.

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

The Chair laid before the Senate the following Tabled and Later (3/23/10) Assigned matter:

Bill "An Act To Amend the Motor Vehicle Laws" S.P. 599 L.D. 1562 (C "A" S-391; H "A" H-711)

Tabled - March 23, 2010, by Senator **DAMON** of Hancock

Pending - motion by same Senator to **ADOPT** Senate Amendment "A" (S-433)

(In House, March 11, 2010, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-391) AND HOUSE AMENDMENT "A" (H-711)**, in **NON-CONCURRENCE**.)

(In Senate, March 23, 2010, on motion by Senator **DAMON** of Hancock, **RECEDED** from **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-391)**. House Amendment "A" (H-711) **READ** and **ADOPTED**, in concurrence. On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-433) **READ**.)

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, let's see if we can do it a little better than we tried it yesterday. The amendment that I am offering with a filing number of S-433, is really a technical amendment. It is to place in statute what has been the practice for some time, and that is the fees that have come from suspension or failure to appear or answer to pay a fine for a traffic violation or an infraction, that they be deposited equally, 50 % each into both the Highway Fund and in the General Fund. This is a practice that I understand has been happening for some time and it is being offered as a technical amendment to clean that up. I hope that helps with this. Thank you, Madame President.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-433) **ADOPTED**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-391); HOUSE AMENDMENT "A" (H-711); SENATE AMENDMENT "A" (S-433)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

Off Record Remarks

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

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Amend Provisions of Certain Laws Relating to Fish and Wildlife

S.P. 615 L.D. 1650  
(C "A" S-388; H "A" H-774;  
S "B" S-452)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with no Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Establish a Duty To Report Serious Injuries"  
H.P. 1235 L.D. 1738

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-733)** (5 members)

Tabled - March 24, 2010, by Senator **RAYE** of Washington

Pending - motion by Senator **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, March 23, 2010, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, March 24, 2010, Reports **READ**.)

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I rise in opposition to the motion before us. This bill addresses a very troubling and difficult issue. How many of us have been sickened at the images broadcast into our living rooms, horrible stories of violence that is met with indifference. Of a teenage girl, just in the past few months, on the west coast, brutally raped in the parking lot of the high school gym as dozens of on-lookers stood passively by and watched. A young boy killed on the sidewalk in Chicago as disinterested bystanders watched and some of them even videotaped the brutal and heinous death of the young man. Closer to home, tragic cases. One young man in my district died when someone elected to look the other way when he suffered a mortal gunshot wound. In Lincoln, a truck driver who was pulled over on the side of the road, was approached by a group of young people, and in the ensuing moments suffered a heart attack and fell to the ground. Those people left him to die and he did die. Some of my colleagues in this Chamber, in the legal profession, have scoffed at the notion that this is something that we can address through legislation, of the notion of establishing a responsibility to report an injury or a crime of this nature. I would submit that other states in this country have found a way to do it. Vermont passed a very similar statute in the late 1960s. Hawaii and Wisconsin passed similar statutes in the 1980s, and Minnesota in the 1990s. Rhode Island has a similar statute. For those who are concerned about the potential unintended consequences or potential litigation, or explosion of litigations resulting from such a law, I would note that the version of the bill that has been sent up in the Minority Report includes a section that says, 'nothing in this bill would create a civil cause of action against a person who fails to comply with the duty described herein.' The fact of the matter is there are some things so repugnant to us as human beings, so inhuman, that we as a society should send a message. When this statute was debated in Minnesota, it came to light that the sponsor of that law was moved to introduce the Minnesota statute because of reports of the gang rape of a young woman in New Bedford, Massachusetts in a bar room. A movie was made about it. She was hoisted onto a pool table and repeatedly assaulted while spectators stood by and some reportedly shouted, 'go for it.' Also, prior to passage of that law, a fourteen-year-old girl in St. Louis was raped while bystanders did nothing for 40 minutes until an eleven-year-old boy, an eleven-year-old boy who knew right from wrong called for help. In the famous Kitty Genovese case, Genovese was killed while more than 30 people listened to her

screams, but chose not to come to her aid or even to pick up the phone and call the police. In August of 1996, a young man was beaten severely by two other young men and pushed into a ditch with just two inches of water in the bottom. Both of the assailants went to their respective homes where they told people what they had done. The people in those homes went to the crime scene, observed the victim in the ditch and did nothing to aid him and no one called the authorities. An autopsy revealed that he didn't die from the brutal beating, but fell unconscious and drowned in the two inches of standing water. These people elected to not even pick up the phone and call 9-1-1. It is not acceptable in a civilized society to stand and gawk or to turn away and choose to do nothing when another human being is suffering needlessly or even dying. I don't think it is too much to expect that in these circumstances there should be a minimal responsibility, not to endanger yourself, not to jump into the middle of a knife fight or put yourself in danger, just call for help. Just pick up the phone and go somewhere and alert someone so that someone's life can be saved. I hope you will agree with me that any person who intentionally or knowingly leaves another to suffer, to be victimized, or to die, should at the very least be subject to the modest \$100 civil fine called for in this bill. It's not much, but it does send a message and it will not open the floodgates of litigation as I read to you from the amended version of the bill. I hope that you will think seriously about it and join me in opposing the present motion.

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

Senator **BLISS:** Thank you, Madame President. Men and women of the Senate, I agree with my good friend and colleague that these stories are repugnant and ought not to be tolerated in what we purport to have as a civilized society. The reality is that the legislation that was passed in Vermont or Hawaii or Minnesota, is not the same as what is being proposed here. The legislation that was passed in Rhode Island, which is the most recent, is in fact currently being challenged in court. The issue is not that the majority of the committee of jurisdiction felt that this would open the floodgates for additional litigation, the issue is that the majority of the committee of jurisdiction felt that this would substantially change the process that law enforcement officials or first responders would have to undertake when they visit the scene. They would be forced to pay way too much attention to collecting names and addresses of those people who are potential witnesses for potential civil action, rather than dealing with the issue at hand. It was absolutely an unacceptable and untenable circumstance. I don't think there's a person on this committee that would not want to find some amicable solution to changing society and requiring people somehow to do what any conscientious person, you or I would do. But this is not the right piece of legislation. Thank you, Madame President.

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

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, it is very rare that I would rise to speak in opposition to my friend from Washington, Senator Raye. And he is my friend. I too am shocked by the stories, we all are. Those stories shock our sensibilities and we cannot imagine people that would be so crass and cruel. But this is what we were

struggling with. First, the bill that came to us asked to allow civil litigation against those who failed to report. There's a long history of civil law in this country that's dealt with this issue and throughout the entire country, all 50 states, they've come to the conclusion that we can't extend civil liability to innocent bystanders, people that had no special relationship or special duty to look out for this. It had nothing to do with the cause of the injury. All states have decided that if we adopt such a duty to people who have nothing to do with it, nonfeasance they call it. Malfeasance would be if you were the causation of it, nonfeasance is you have nothing to do with it. If we were to adopt that duty, the law court of Maine has said that each person would be obligated to contact emergency assistance anytime she witnessed another's injury, which would indeed be a duty without practical limit. The problem is you can't limit it. Certainly if we were talking about civil liability, attorneys would sue anybody who was in sight, that's for sure. What else are you going to do? You'd look at the video camera and see if you can find anybody who was in the vicinity. It's very difficult to say where it would stop and the difficulty of people having to defend themselves in court, even if they were found not to have breached the duty. What's before you now clearly has limited that. It does not say that you would be liable for tort or civil liability, and you could not be sued for dollar damages by the person, but really that's what they were after. What it says now is that you're not guilty of any civil tort against the person injured, but that the state by way of a quasi-criminal remedy, can come after you for \$100 as a civil violation. That's really an empty threat. I don't believe that \$100 violation will change people's conduct. I do believe, as the Senator from Cumberland, Senator Bliss indicated, it's going to create an overburdening of our first responders and law enforcement that will detract them from what they really need to do and that's to provide emergency assistance and try to track down and bring to justice the actual malfeasant, the person who caused the injury. What this bill does is put the onus on law enforcement to locate witnesses, and then decide in each case if that witness intentionally refused or failed to dial 9-1-1. Whether they perhaps rightfully thought that someone else had done it, all to bring them into court for a \$100 violation. That's not going to change conduct, that's not going to change bad behavior by our citizenry. I think we're going down the wrong road with this. If we do agree, and the Committee did unanimously, there should be no civil liability, trying to replace that with this civil violation is an empty remedy, and I urge the Body to please vote for the motion before us. Thank you.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, just very briefly, I don't think there should be any confusion when we talk about first responders. EMTs are certainly going to be there, they know what their role is, their role is going to be to provide assistance to the injured person. As for the police, I would be surprised if they weren't already just routinely collecting the names of witnesses. I would think that would be a matter of routine police business. Both of the previous speakers have referenced in some detail the potential civil action and I will read again from the bill just so there can be no confusion, that 'nothing in this section creates a civil cause of action against a person who fails to comply with the duty described. I just want to be very clear. There is no civil cause of

action. As for it being an empty response, I wish that you could hear the family of the young man in my district whose life was lost. You want to talk about an empty response, when you are told that there's nothing wrong with it in the eyes of the law, your son can be left to die as could any son or daughter of anyone in this room, mother or father, sister or brother, can be left to die. Their rape, beating and murder can be witnessed and the witnesses can walk away and there is nothing in state statute that would even so much as slap them on the wrist. That is what we're talking about. That may feel to some like an empty response, but the emptiness that one feels to know that there is nothing in law to respond to that is a far greater one. Thank you.

The Chair ordered a Division.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#354)**

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, HASTINGS, HOBBS, JACKSON, MARRACHE, NASS, RECTOR, SCHNEIDER, SULLIVAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, MCCORMICK, NUTTING, PERRY, PLOWMAN, RAYE, SHERMAN, SIMPSON, TRAHAN

ABSENT: Senators: GOOLEY, MILLS, ROSEN

EXCUSED: Senators: GOODALL, SMITH

20 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 3 Senators being absent and 2 Senators being excused, the motion by Senator **BLISS** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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The Chair laid before the Senate the following Tabled and Later (3/18/10) Assigned matter:

HOUSE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act To Stimulate the Maine Economy and Promote the Development of Maine's Priority Transportation Infrastructure Needs"

H.P. 1167 L.D. 1639

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-699)**

Tabled - March 18, 2010, by Senator **DAMON** of Hancock

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

(In House, March 17, 2010, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-699)**.)

(In Senate, March 18, 2010, Report **READ**.)

Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-699) **READ**.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-441) to Committee Amendment "A" (H-699) **READ**.

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

Senator **DAMON:** Thank you, Madame President. Men and women of the Senate, this amendment clarifies that the means of securing performance of a contract must meet the requirements of the Public Works Contractors' Surety Bond Law of 1971. This bill of course is a part of what we're referring to as a public/private partnership in transportation, so if a company or an entity wants to become involved in that, their surety bond would be commensurate with the Public Works Contractors' Surety Bond Law of 1971. Thank you, Madame President.

On motion by Senator **DAMON** of Hancock, Senate Amendment "A" (S-441) to Committee Amendment "A" (H-699) **ADOPTED**.

Committee Amendment "A" (H-699) as Amended by Senate Amendment "A" (S-441) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

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Off Record Remarks  
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On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED** to Thursday, March 25, 2010, at 10:00 in the morning.