

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

In Senate Chamber  
Thursday  
February 11, 2010

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

Prayer by Reverend Linda Peyton, Nursing Home Chaplain,  
Episcopal Diocese of Maine.

**REVEREND PEYTON:** I first want to thank you for your service. These aren't easy times, as you know. Exciting times but not easy. All of us in leadership positions are holding more and more people and stories in our hearts, people who are hanging by threads and those threads are fraying. Hold them gently and gracefully. Let us pray.

Oh God, whose energy we may know as the life force that courses through our veins as we travel our earthly paths, the love force that molds and remolds our hearts at every intersection, may we travel ever more mindfully these months and days, whether within these halls and chambers or out about our home territories. These are months and days given to us by the citizens of this state, in trust of our leadership abilities and sensibilities, to make a difference in their lives, easing burdens and opening vistas, creating workable solutions. These months and days froth with hardships, challenges, and decisions we must face together. May we do so weaving the way forward with grace, dignity, charity, and vision. We ask, gracious spirit, that You gift us with the stillness within, that we may be able to distinguish between what is personal and what is not and allow for the whispers of wisdom to be heard; that You charge us with courage as elected leaders to act out of integrity and service and not from places of arrogance or fear; that You challenge us with hospitality that welcomes into our midst not just the stranger or the one nobody wants to touch but also the strange ideas and unusual ways of looking at issues that just might lead us to doorways we had not noticed; that you dare us with vision and creativity, that we may see our complex struggles and challenges in a far large context and discover interconnections of seemingly disconnected pieces and stories; that you tease us with humor, especially when we become mired in frustration, that we do not take ourselves too seriously, and in those playful moments, that we might find patience with ourselves and those that we work for and with. Most of all that You gather within us tenacious hope that opens to us the unimaginable and inspires us to fortitude and ultimately to gratitude. Amen.

Reading of the Journal of Tuesday, February 9, 2010.

Doctor of the day, Dr. Sydney Sewall, MD of Hallowell.

Off Record Remarks

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

**ORDERS**

**Joint Order**

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

S.P. 689

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Wednesday, February 17, 2010 at 10:00 in the morning.

**READ and PASSED.**

Ordered sent down forthwith for concurrence.

**PAPERS FROM THE HOUSE**

**Joint Resolutions**

The following Joint Resolution:

H.P. 1267

**JOINT RESOLUTION MEMORIALIZING THE UNITED STATES SECRETARY OF THE NAVY TO TRANSFER THE USS JOHN F. KENNEDY TO THE NONPROFIT ORGANIZATION "JFK FOR ME" FOR THE PURPOSE OF LOCATING THE SHIP IN PORTLAND HARBOR**

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Secretary of the Navy as follows:

WHEREAS, the USS John F. Kennedy, CV-67, is a decommissioned supercarrier of the United States Navy and named after the 35th President of the United States, John F. Kennedy; and

WHEREAS, the late President Kennedy was a beloved figure not only in Maine and New England, but throughout the Nation; and

WHEREAS, after nearly 40 years of service in the United States Navy, the USS John F. Kennedy was officially decommissioned on August 1, 2007; and

WHEREAS, the United States Navy is willing to give the ship to a nonprofit organization pursuant to federal laws and regulations as long as the nonprofit organization has the support of a host city; and

WHEREAS, the USS John F. Kennedy Museum Committee, also known as "JFK for ME," is a nonprofit organization in Maine established for the sole purpose of obtaining ownership of the USS John F. Kennedy and relocating it to the City of Portland; and

WHEREAS, JFK for ME proposes to undertake this task at no expense to the taxpayers of Maine; and

WHEREAS, other communities throughout the country have become host cities for retired naval vessels; and

WHEREAS, those retired vessels have served as successful tourist attractions and places for public use and enjoyment such as museums, historic sites, conference centers and similar uses; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Secretary of the Navy authorize the transfer of the USS John F. Kennedy for the purpose of establishing that ship in Portland Harbor; and be it further

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

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

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

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The following Joint Resolution:

H.P. 1268

**JOINT RESOLUTION MEMORIALIZING THE MAINE  
CONGRESSIONAL DELEGATION TO OPPOSE LOW-LEVEL  
FLIGHTS IN WESTERN MAINE**

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Maine Congressional Delegation as follows:

WHEREAS, the Massachusetts Air National Guard proposes to change the use of low-level training flights in the military operations airspace area in western Maine, known as "the Condor airspace"; and

WHEREAS, the Massachusetts Air National Guard's proposal will allow for low-altitude combat simulation flights within the Condor airspace and the proposal has been met with opposition by the residents near the flight paths, as well as concerned citizens throughout the State; and

WHEREAS, the major problems are the low altitude of the jets, the potential of an increase in flights, the existing small private aircraft flights in the area and the increased noise levels

that will disturb agriculture and wildlife, the serenity of the area and the quality of life for both residents and tourists; and

WHEREAS, the Massachusetts Air National Guard's draft environmental impact statement for these flights is incomplete and fails to meet minimum standards for adequate research and publication, containing errors, omissions and unsupported conclusions related to flight safety, environmental damage and quality of life; and

WHEREAS, specifically, recent economic reports and recommendations on "quality of place" and the effect of low-level aircraft flights have not been addressed by the draft environmental impact statement; and

WHEREAS, another issue is that noise data for F-18, F-22 and F-35 aircraft are omitted from the draft environmental impact statement, despite the likely use of the airspace by these significantly louder aircraft, and independent analysis of the noise data has not been completed; and

WHEREAS, no meaningful mitigation measures have been considered or suggested to protect the people and environment regarding these concerns and the State would have no binding control over low-level flight activity; and

WHEREAS, the Penobscot Nation, a federally recognized sovereign Indian tribe, has serious concerns about the effects of this proposal, and the approximately 47,600 acres of tribal lands affected by the proposed expansion of military training flights are lands that were recovered by the Penobscot Nation under the terms of the federal Maine Indian Claims Settlement Act of 1980, 25 United States Code, Sections 1721 to 1735; and

WHEREAS, this proposal may result in unintended restrictions on the uses of the tribe's lands and resources, which may constitute a violation of the Maine Indian Claims Settlement Act of 1980, and an executive order of the President of the United States and federal law require that all federal agencies formally consult with federally recognized Indian tribes when their proposed actions potentially affect such tribes, and to date the Massachusetts Air National Guard has not initiated the required consultation process; and

WHEREAS, communication between the Massachusetts Air National Guard, the citizens of the State and the Governor of Maine has been incomplete and the Massachusetts Air National Guard has been unresponsive to questions and requests for information; and

WHEREAS, important environmental issues in the State have not been properly addressed, such as how these flights will affect endangered and protected species, such as the Barrow's Goldeneye duck and the American Bald Eagle; and

WHEREAS, the impact of the flights on the locations of present and future wind energy sites has not been properly addressed and the safety of the aircraft flying out of local airports has not been properly addressed; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to express our dissatisfaction with the present notification and hearing process for low-level flights over the western portion of our State and we urge the Maine Congressional Delegation to request that any action by the Federal Aviation Administration be delayed until the draft environmental impact statement is complete and addresses all the above identified concerns; and be it further

RESOLVED: That We call upon the Maine Congressional Delegation to urge the Federal Aviation Administration to hold a public hearing on this proposed airspace change and to request the Massachusetts Air National Guard to withdraw proposals to modify the Condor military operating areas until the previous requests are implemented; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Massachusetts Air National Guard and to each Member of the Maine Congressional Delegation.

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

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

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The following Joint Resolution:

H.P. 1269

**JOINT RESOLUTION RECOGNIZING MAINE ADULT EDUCATION**

WHEREAS, since 1871 Maine's public schools have supported the development of an adult education system that has grown and adapted to meet the needs of people throughout the State; and

WHEREAS, Maine's adult education programs are uniquely positioned to provide adults with the opportunity to learn where they live in all parts of Maine, with services in 85% of municipalities; and

WHEREAS, adult education programs are vital to the economic development of Maine and are actively responding to the current crisis of job loss by providing programs and courses specifically designed to help educate the workforce and prepare Maine adults for success, including:

1. Direct service to Maine adults who have experienced job loss, with enrollment increases in academic and job-related courses of between 30% and 100% in 2008;

2. Career preparation and courses for Maine workers, plus certificate programs, including the implementation of the WorkReady™ program focusing on workforce development skills for success on the job;

3. Literacy and English as a second language programs and successful family literacy programs combining adult education and early childhood and parenting instruction;

4. High school completion and general educational development programs, with 3,000 credentials awarded in Maine annually, with a major emphasis on individuals under the age of 25;

5. Comprehensive college transition programs in place in 22 regions covering every county in Maine, which provide career guidance, orientation to college and refresher and prerequisite classes for adults seeking college success; and

6. Community education, including a vibrant array of self-supporting courses contributing to the quality of life in Maine communities, offering the opportunity for Mainers of all ages to share talents and learn from others; and

WHEREAS, in 2009 Maine Adult Education launched a web portal system of coordinated websites for local programs allowing statewide searching for courses and online registration and payment; 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, pause to acknowledge and express our appreciation and strong support of Maine's adult education programs, which uniquely meet the needs of the communities they serve and provide a vital system of service to the population of the State as new challenges are faced in this period of economic uncertainty; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Education.

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

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

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**COMMUNICATIONS**

The Following Communication: S.P. 687

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

February 9, 2010

Sen. Lawrence Bliss  
Senate Chair, Joint Standing Committee on Judiciary  
Rep. Charles R. Priest  
House Chair, Joint Standing Committee on Judiciary  
124<sup>th</sup> Legislature  
Augusta, ME 04333

Dear Senator Bliss and Representative Priest:

Please be advised that Governor John E. Baldacci has nominated William S. Brodrick of Kennebunkport for reappointment as an Active Retired Justice to the Maine Superior Court.

Pursuant to Article V, Part 1 §8 of the Constitution of Maine, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell  
President of the Senate

S/Hannah M. Pingree  
Speaker of the House

**READ and REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

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The Following Communication: S.P. 688

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

February 9, 2010

Sen. Lawrence Bliss  
Senate Chair, Joint Standing Committee on Judiciary  
Rep. Charles R. Priest  
House Chair, Joint Standing Committee on Judiciary  
124<sup>th</sup> Legislature  
Augusta, ME 04333

Dear Senator Bliss and Representative Priest:

Please be advised that Governor John E. Baldacci has nominated Wayne Douglas of Ocean Park for reappointment and David Soucy of Fort Kent for appointment as a Maine District Court Judge.

Pursuant to Title 4, MRSA §157-1 these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Elizabeth H. Mitchell  
President of the Senate

S/Hannah M. Pingree  
Speaker of the House

**READ and REFERRED** to the Committee on **JUDICIARY**.

Sent down for concurrence.

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The Following Communication: S.C. 633

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 8, 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 Legal and Veterans Affairs has had under consideration the nomination of Honorable Orland McPherson of Eliot, for reappointment to the State Liquor and Lottery Commission.

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	Sullivan of York, Goodall of Sagadahoc, Plowman of Penobscot
	Representatives	6	Trinward of Waterville, Beaulieu of Auburn, Carey of Lewiston, Nass of Acton, Pinkham of Lexington Township, Valentino of Saco
NAYS		0	
ABSENT		4	Rep. Cornell du Houx of Brunswick, Rep. Fitts of Pittsfield, Rep. Russell of Portland, Rep. Tuttle of Sanford

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 Honorable Orland McPherson of Eliot, for reappointment to the State Liquor and Lottery Commission be confirmed.

Signed,

S/Nancy B. Sullivan  
Senate Chair

S/Pamela Jabar Trinward  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS 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 (#283)**

YEAS: Senators: None

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

ABSENT: Senator: BOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, 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 **Orland McPherson** of Eliot for reappointment to the State Liquor and Lottery Commission was **CONFIRMED**.

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

The Following Communication: S.C. 634

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 8, 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 Legal and Veterans Affairs has had under consideration the nomination of Michael T. Peters of Dixfield, for reappointment to the State Liquor and Lottery Commission.

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	Sullivan of York, Goodall of Sagadahoc, Plowman of Penobscot
	Representatives	6	Trinward of Waterville, Beaulieu of Auburn, Carey of Lewiston, Nass of Acton, Pinkham of Lexington Township, Valentino of Saco
NAYS		0	
ABSENT		4	Rep. Cornell du Houx of Brunswick, Rep. Fitts of Pittsfield, Rep. Russell of Portland, Rep. Tuttle of Sanford

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 Michael T. Peters of Dixfield, for reappointment to the State Liquor and Lottery Commission be confirmed.

Signed,

S/Nancy B. Sullivan  
Senate Chair

S/Pamela Jabar Trinward  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS 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 (#284)**

YEAS: Senators: DAVIS, RAYE

<p>NAYS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, BRYANT, COURTNEY, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MARRACHE, MCCORMICK, MILLS, NASS, NUTTING, PERRY, PLOWMAN, RECTOR, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SMITH, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL</p>	<p>Representatives 6  Trinward of Waterville, Beaulieu of Auburn, Carey of Lewiston, Nass of Acton, Pinkham of Lexington Township, Valentino of Saco</p>
<p>ABSENT: Senator: BOWMAN</p>	<p>NAYS 0  ABSENT 4  Rep. Cornell du Houx of Brunswick, Rep. Fitts of Pittsfield, Rep. Russell of Portland, Rep. Tuttle of Sanford</p>

2 Senators having voted in the affirmative and 32 Senators having voted in the negative, with 1 Senator being absent, and 2 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 **Michael T. Peters** of Dixfield for reappointment to the State Liquor and Lottery Commission was **CONFIRMED**.

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

The Following Communication: S.C. 635

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 8, 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 Legal and Veterans Affairs has had under consideration the nomination of Walter T. Simcock of Waterville, for reappointment to the State Liquor and Lottery Commission.

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	Sullivan of York, Goodall of Sagadahoc, Plowman of Penobscot
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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 Walter T. Simcock of Waterville, for reappointment to the State Liquor and Lottery Commission be confirmed.

Signed,

S/Nancy B. Sullivan  
Senate Chair

S/Pamela Jabar Trinward  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **LEGAL AND VETERANS 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 (#285)**

YEAS: Senators: None

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

ABSENT: Senator: BOWMAN

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, 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 **Walter T. Simcock** of Waterville for reappointment to the State Liquor and Lottery Commission was **CONFIRMED**.

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

The Following Communication: S.C. 636

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

February 8, 2010

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1624 An Act To Ensure Rights to Children for Caretaker Relatives

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Lawrence S. Bliss  
Senate Chair

S/Rep. Charles R. Priest  
House Chair

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

The Following Communication: S.C. 637

**STATE OF MAINE  
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

February 4, 2010

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

Dear President Mitchell and Speaker Pingree:

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

L.D. 1437 An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations

L.D. 1713 An Act Pertaining to Educational Benefits for Veterans and Their Dependents (EMERGENCY)

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

Sincerely,

S/Sen. Nancy B. Sullivan  
Senate Chair

S/Rep. Pamela Jabar Trinward  
House Chair

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

The Following Communication: S.C. 638

**STATE OF MAINE  
ONE HUNDRED AND TWENTY FOURTH LEGISLATURE  
COMMITTEE ON NATURAL RESOURCES**

February 9, 2010

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

Dear President Mitchell and Speaker Pingree:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 956 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide Constitutional Protection to the Funds Generated by the Regional Greenhouse Gas Initiative

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Seth A. Goodall  
Senate Chair

S/Rep. Robert S. Duchesne  
House Chair

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

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## ORDERS

### Joint Resolution

On motion by Senator **ALFOND** of Cumberland (Cosponsored by Representative SUTHERLAND of Chapman and Senator: SCHNEIDER of Penobscot, Representatives: BERRY of Bowdoinham, CASAVANT of Biddeford, LOVEJOY of Portland, NELSON of Falmouth, RANKIN of Hiram, RICHARDSON of Carmel, WAGNER of Lewiston), the following Joint Resolution:  
S.P. 685

### JOINT RESOLUTION IN SUPPORT OF THE NEW ENGLAND SECONDARY SCHOOL CONSORTIUM

WHEREAS, the New England Secondary School Consortium is a multistate partnership to promote and advance higher educational aspirations, performance and attainment among the adolescents of Maine, Connecticut, New Hampshire, Rhode Island and Vermont and it has been and will continue to be a force for enhancing the quality of Maine's system of public secondary education; and

WHEREAS, Maine must transform its educational policies, assessment practices, teaching strategies, professional development and state and local leadership to ensure that its students will not only be competitive with their peers across New England and the globe, but that every student graduates prepared for success in the colleges, careers and communities of the 21st century; and

WHEREAS, because education and high levels of postsecondary degree attainment are critical to workforce development, job creation and sustainable, long-term economic prosperity in the 21st century, it is critical that Maine strives to improve educational quality, opportunity and efficacy for its citizens through regional collaboration, resource sharing, expertise exchange and performance comparability; and

WHEREAS, the New England Secondary School Consortium is developing:

1. Internationally competitive learning models and programs at the secondary level that will redefine the traditional concept of the public high school to more effectively mirror the lives and learning needs of today's students;
2. Learning standards that reflect the ways in which our youth will live, work, learn and lead in the 21st century;
3. New state and local policies designed to stimulate educational innovation and creativity; and
4. Performance assessments that can more accurately measure the essential knowledge, skills and habits of mind that Maine students will apply throughout their lives and across all educational, career and civic contexts; and

WHEREAS, because the New England states share similar histories, educational systems, demographic populations, social challenges and interdependent economic prospects, the independent and collective interests of our states can be more effectively served through strategic partnerships that can improve the educational, career and life outcomes of our citizens; and

WHEREAS, the New England Secondary School Consortium is fostering a coordinated regional effort to build broad-based support for its major initiatives among educators, policy makers and business leaders, while also engaging parents and community members in the educational process through school involvement, positive messaging, community outreach and cross-state networking; and

WHEREAS, innovative regional collaborations have the potential to attract significant public and private investments, create a higher skilled workforce, attract new economic opportunities, drive sustained economic growth and improve the quality of life for all Maine residents; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to express our strong support and endorsement of the New England Secondary School Consortium and its goals, strategies and partnerships; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable John E. Baldacci, Governor of Maine; the Maine Department of Education; the commissioners of education for Connecticut, New Hampshire, Vermont and Rhode Island; the executive director of the Great Schools Partnership; the president of the Nellie Mae Education Foundation; and the director of education for the Bill and Melinda Gates Foundation.

**READ and ADOPTED.**

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Update the Laws Concerning the Maine School of Science and Mathematics"

H.P. 1101 L.D. 1564

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-605)**.

Signed:

Senators:

ALFOND of Cumberland  
SCHNEIDER of Penobscot  
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman  
CASAVANT of Biddeford  
WAGNER of Lewiston  
LOVEJOY of Portland  
NELSON of Falmouth  
RANKIN of Hiram  
McFADDEN of Dennysville  
JOHNSON of Greenville

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

Signed:

Representatives:

FINCH of Fairfield  
RICHARDSON of Carmel

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-605)**.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-605) **READ** and **ADOPTED**, in concurrence.

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

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

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Provide for the Safety of Maine Athletes"

H.P. 1168 L.D. 1640

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-603)**.

Signed:

Senators:

DAMON of Hancock  
GOOLEY of Franklin

Representatives:

MAZUREK of Rockland  
PEOPLES of Westbrook  
THERIAULT of Madawaska  
HARLOW of Portland  
CAREY of Lewiston

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

Signed:

Representatives:

HOGAN of Old Orchard Beach  
BROWNE of Vassalboro  
ROSEN of Bucksport  
THOMAS of Ripley  
CEBRA of Naples

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-603)**.

Reports **READ**.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#286)**

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

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

ABSENT: Senator: BOWMAN

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-603) **READ** and **ADOPTED**, in concurrence.

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

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**Senate**

**Ought to Pass As Amended**

Senator NUTTING for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Authorize the Department of Conservation To Place Priority on Access to Certain Prominent Water Bodies under the Land for Maine's Future Fund

S.P. 262 L.D. 687

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

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

**READ ONCE.**

Committee Amendment "A" (S-363) **READ** and **ADOPTED**.

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

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Senator GERZOFKY for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs" S.P. 305 L.D. 791

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-364)**.

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

Committee Amendment "B" (S-364) **READ** and **ADOPTED**.

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

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Senator ALFOND for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Encourage Veterinary Practice in Maine"

S.P. 116 L.D. 352

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-368)**.

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

**READ ONCE.**

Committee Amendment "B" (S-368) **READ** and **ADOPTED**.

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

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Senator BOWMAN for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Resolve, To Increase the Financial Stability of Low-income Families in Maine

S.P. 614 L.D. 1649

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-365)**.

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

**READ ONCE.**

Committee Amendment "A" (S-365) **READ** and **ADOPTED**.

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

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Senator DAMON for the Committee on **MARINE RESOURCES** on Bill "An Act To Eliminate the 3-trap Limit in the Waters off Hancock County"

S.P. 597 L.D. 1560

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-367).**

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

**READ ONCE.**

Committee Amendment "A" (S-367) **READ** and **ADOPTED**.

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

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Senator GOODALL for the Committee on **NATURAL RESOURCES** on Bill "An Act To Amend Laws Administered by the Department of Environmental Protection"  
S.P. 610 L.D. 1603

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-362).**

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

**READ ONCE.**

Committee Amendment "A" (S-362) **READ** and **ADOPTED**.

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

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Senator DAMON for the Committee on **TRANSPORTATION** on Bill "An Act To Improve Safety on Maine's Primary and Secondary Roads, Reduce Road Maintenance Costs and Improve the Environment and the Economy by Allowing Certain Heavy Commercial Vehicles on the Interstate Highway System in Maine" (EMERGENCY)  
S.P. 663 L.D. 1736

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-366).**

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

**READ ONCE.**

Committee Amendment "A" (S-366) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-366).**

Ordered sent down forthwith for concurrence.

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

**SECOND READERS**

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

**House**

Bill "An Act To Require That Marine Resources Dealers Purchase Only from Licensed Harvesters"  
H.P. 1122 L.D. 1584

Bill "An Act To Expand the Use of Ignition Interlock Devices"  
H.P. 1137 L.D. 1609

Bill "An Act To Make Technical Changes to the Laws Governing the Practice of Law"  
H.P. 1150 L.D. 1622

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

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**House As Amended**

Bill "An Act To Fund the Maine Downtown Center"  
H.P. 75 L.D. 91  
(C "B" H-607)

Resolve, To Develop a Model Academic Year Calendar  
H.P. 1100 L.D. 1563  
(C "A" H-601)

Bill "An Act To Amend the Laws Governing the We Support Our Troops Registration Plates"  
H.P. 1107 L.D. 1570  
(C "A" H-606)

Bill "An Act To Clarify the Application of Certain Statutory Requirements to Foreclosures" (EMERGENCY)  
H.P. 1208 L.D. 1707  
(C "A" H-604)

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Promote Geothermal Energy in the State"

S.P. 455 L.D. 1222

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-369)**.

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

**READ ONCE.**

Committee Amendment "A" (S-369) **READ** and **ADOPTED**.

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

Senator HOBBS for the Committee on **UTILITIES AND ENERGY** on Bill "An Act To Assist in Reviewing Wind Energy Applications"

S.P. 652 L.D. 1680

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

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

**READ ONCE.**

Committee Amendment "A" (S-370) **READ** and **ADOPTED**.

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

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

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

**PAPERS FROM THE HOUSE**

**Pursuant to Statute  
Maine Health Data Organization**

The **Maine Health Data Organization**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying 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

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

On motion by Senator **BRANNIGAN** of Cumberland, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**ORDERS OF THE DAY**

**Unfinished Business**

The following matter 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 (2/9/10) Assigned matter:

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Dedicate Surplus Transportation Funds to Highway Maintenance and Paving" (EMERGENCY)

S.P. 579 L.D. 1501

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-361)** (4 members)

Tabled - February 9, 2010, by Senator **DAMON** of Hancock

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

(In Senate, February 9, 2010, Reports **READ**.)

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 Franklin, Senator Gooley.

Senator **GOOLEY**: Thank you, Madame President. I would just like to say something about this particular legislation. It is about the light capital or the maintenance surface treatment known as MST. It is severely underfunded. This LD proposes to generate funding, surplus funds, to help put more paving on Maine roads. It is the right thing to do. Thank you.

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

Senator **DAMON**: Thank you, Madame President. Ladies and gentlemen of the Senate, as has been mentioned, the light capital program of the Highway Fund Budget that deals with the maintenance of our roadway, the MST, is severely underfunded. In past sessions of this Body we have worked to try to solve that underfunding problem with a sustainable effort to no avail and so the problem continues about not being able to take care of our roads. This bill, though well intentioned, does not do that and it was recognized that way by a certain majority of the Transportation Committee. What it intends to do is to take money that has been budgeted for one thing and move it to an area that has a deficiency, that is the maintenance surface treatment. If we have a surplus, unexpended revenues in a particular account, this bill proposes to put those towards that end. It's a good deal. It's something, however, that we already do. The committee has recognized that whenever there are surpluses at the end of a budget year, whether they come from personal services or whether they come from any of the other categories within the budget, they will be used for either capital, that's roads and bridges, or they will be used for maintenance surface treatment, which is what this bill suggests. The fact of the matter is, ladies and gentlemen, that this bill is not necessary. It is already practiced. We are already squeezing every last penny that we can from a penny pie that is really too small. I would urge that the chamber vote on the recommendation of the committee, that is Ought Not to Pass. Thank you, Madame President.

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

Senator **COURTNEY**: Thank you, Madame President. Men and women of the Senate, I appreciate the opportunity to speak on this bill. I think this is part of a more comprehensive plan from this side of the aisle to put forth commonsense solutions to try to solve these problems that we have without raising the gas tax. We heard a moment ago that money has been in the budget for one thing and used for something else, alluding that this money has been budgeted. This bill very clearly distinguishes it would be excess revenues that would be used not currently budgeted revenues. Obviously when you are on this side of the aisle you know how to count pretty well and we know the outcome of this. Having said that, I think that by bringing this issue forward we've already had somewhat of a victory because this Transportation Budget that was submitted by the Chief Executive already does half of what we were trying to do on an annual basis last year, which we were unable to do. At least 300 of the 600 miles are going to receive the surface maintenance treatment. I hope that we will continue to find ways to work together. I would encourage you to defeat the pending motion, but I understand the ultimate outcome. We will continue to put forward commonsense idea so that we can, hopefully, come up with solutions by working

together that will be better than either of us thought we could come up with in the beginning. Thank you, Madame President.

**THE PRESIDENT**: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#287)**

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

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

ABSENT: Senator: BOWMAN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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Off Record Remarks

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

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Senator **MARRACHÉ** of Kennebec was granted unanimous consent to address the Senate off the Record.

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

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Off Record Remarks

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

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Off Record Remarks

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Senate at Ease.

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Improve Safety on Maine's Primary and Secondary Roads, Reduce Road Maintenance Costs and Improve the Environment and the Economy by Allowing Certain Heavy Commercial Vehicles on the Interstate Highway System in Maine  
S.P. 663 L.D. 1736  
(C "A" S-366)

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

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On motion by Senator **BARTLETT** of Cumberland,  
**ADJOURNED**, pursuant to the Joint Order, to Wednesday,  
February 17, 2010, at 10:00 in the morning.