

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

In Senate Chamber
Thursday
February 18, 2010

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

Prayer by Reverend Jane E. Dibden, Covenant Chapel of North
Vassalboro.

REVEREND DIBDEN: Good morning. Let us pray. Dear Lord,
this is the day that You have made and we rejoice in it. Thank
You for the many blessing this winter and thank You for the needs
that have been met. Please grant us wisdom liberally and thank
You for Your grace, Your guidance, and Your goodness. Please
bless our Madame President and all the Senators and staff today,
Lord. We pray with gratitude in our hearts. Amen.

Reading of the Journal of Wednesday, February 17, 2010.

Doctor of the day, Dr. David Jones, MD of Presque Isle.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **BARTLETT** of Cumberland, the following Joint Order:
S.P. 699

Ordered, the House concurring, that when the House and Senate
adjourn, they do so until Tuesday, February 23, 2010 at 10:00 in
the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

SENATE PAPERS

Bill "An Act To Provide for Legislative Review of Recently
Proposed Revisions to Certain Rules Adopted Pursuant to the
Site Location of Development Laws"
S.P. 698 L.D. 1787

Presented by Senator GOODALL of Sagadahoc.
Cosponsored by Representative DUCHESNE of Hudson.

Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

On motion by Senator **GOODALL** of Sagadahoc, **REFERRED** to
the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Amend the Loan Originator Registration Laws"
H.P. 1146 L.D. 1618

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

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

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

READ ONCE.

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

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Facilitate Uniformity Regarding Exemption from
Registration of Certain Securities Offerings"
H.P. 1147 L.D. 1619

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

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

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

READ ONCE.

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

Ought to Pass As Amended

The Committee on **AGRICULTURE, CONSERVATION AND
FORESTRY** on Bill "An Act To Establish a Revenue Source for
the Maine Pesticide Education Fund"
H.P. 858 L.D. 1239

Reported that the same **Ought to Pass as Amended by
Committee Amendment "A" (H-619).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-619)**.

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

READ ONCE.

Committee Amendment "A" (H-619) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Protect Maine Farms and Nurseries"

H.P. 1123 L.D. 1585

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-620)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620)**.

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

READ ONCE.

Committee Amendment "A" (H-620) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Consumers from Charges after a Free Trial Period"

H.P. 1085 L.D. 1541

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-626)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-626)**.

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

READ ONCE.

Committee Amendment "A" (H-626) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide for the 2010 and 2011 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

H.P. 1240 L.D. 1743

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-624)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624)**.

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

READ ONCE.

Committee Amendment "A" (H-624) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Maintain Compliance of Maine's Insurance Laws with National Standards"

H.P. 1059 L.D. 1510

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-628)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-628)**.

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

READ ONCE.

Committee Amendment "A" (H-628) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **NATURAL RESOURCES** on Bill "An Act To Expand Eligibility of Certain Municipal Landfills To Participate in the State's Remediation and Closure Program"

H.P. 1161 L.D. 1633

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-629)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-629)**.

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

READ ONCE.

Committee Amendment "A" (H-629) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Protect Elderly Residents from Losing Their Homes Due to Taxes or Foreclosure"

H.P. 776 L.D. 1121

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-621)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-621)**.

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

READ ONCE.

Committee Amendment "A" (H-621) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws"

H.P. 1083 L.D. 1539

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-622)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-622)**.

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

READ ONCE.

Committee Amendment "A" (H-622) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Change the Requirements for the Sales Tax Exemption for Snowmobile Trail Grooming Equipment"

H.P. 1165 L.D. 1637

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-623)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-623)**.

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

READ ONCE.

Committee Amendment "A" (H-623) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Direct Funds from the Highway Fund to the Highway and Bridge Light Capital Program" (EMERGENCY)

H.P. 1169 L.D. 1641

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

Signed:

Senators:

DAMON of Hancock
PERRY of Penobscot

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 To Pass as Amended by Committee Amendment "A" (H-610)**.

Signed:

Senator:

GOOLEY of Franklin

Representatives:

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

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

Reports **READ**.

Senator **DAMON** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 Chair noted the absence of the Senator from Oxford, Senator **HASTINGS**, the Senator from Androscoggin, Senator **NUTTING**, and the Senator from Androscoggin, Senator **SIMPSON** and further excused the same Senators from today's Roll Call votes.

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

Senator **GOOLEY:** Thank you, Madame President. I stand in opposition to the current motion. I would like to see us go on and support the Ought to Pass as Amended version and the amendment says that instead of 7.5% being allocated from the Highway Fund that it would be half that, or 3.75%. I would urge members to consider this. We all know that the light capital paving program is very important to Maine and it's severely underfunded. I'd just like to also say that the Maine Municipal Association spoke at the public hearing and they said that they support the spirit of L.D. 1641 for acknowledging that more light capital funding is a priority for Maine. It's very important that we go on to defeat the current motion and support the Minority Report. Thank you.

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, in spite of the good Senator's plea to have us oppose the pending motion for a number of reasons let me just lay out some of the realities. The Maine Municipal Association, as has just been announced, is very much interested in having us have a light capital program that would include having a paving project for the 600 miles of road that we are supposed to be taking care of each year and are not. They very much would like the spirit of that obligation upheld. They did not, in any way, say that they would like to have money taken from within the Highway Fund Budget, a budget that isn't large enough now and isn't sufficient to take care of our needs, and have that money transferred into a paving account. They did not say that. I suspect that if we were to ask them they might even say that they would support making the pie a little larger, which is, in fact, what we should be doing, but that's for a different talk. I will simply tell you that to take money away from the Highway Fund now, the money that comes in to it, and divert it to this program jeopardizes, among other things, jobs. That money that is being taken from the Highway Fund and put into the TransCap account is for capital projects. Capital projects which include, but are not

limited to, bridges and rebuilding of highways, not simply putting a Band-Aid over the top of our roads to see if we can squeak by for a few more years. Those projects, capital projects, do indeed create jobs and jobs ought to be foremost in our mind as we talk about either the Highway Fund or the other obligations that are coming before us and opportunities that are to be coming before us in this session. With due respect to my good friend and colleague on the Transportation Committee, I would ask that we not heed his request and that we support my motion of Ought Not to Pass. Thank you, Madame President.

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

Senator **RAYE:** Thank you, Madame President. Men and women of the Senate, I rise to speak very briefly on this. This bill represents yet another effort to ensure a level of funding to maintenance of our roads and highways without raising taxes. In the same way that we dedicate a specific portion of revenues to the TransCap we can also dedicate a specific portion of revenues to maintenance. It's almost as if there is a feeling or sense that maintenance of our roads is not important and not relevant. We know better than that. It is important. It is relevant. We have an opportunity with this bill, that received bipartisan support in the Transportation Committee, to move forward in a way that will ensure a level of funding for surface maintenance. I hope that you will follow the Senator from Franklin, Senator Gooley's light and vote the pending motion down so we can move on. Thank you.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **BRANNIGAN:** Thank you, Madame President. This sounds awfully familiar and I was wondering if there were other opportunities when we could have done this in a better way, taking care of the skinny mix problem? Thank you.

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

Senator **DAMON:** Thank you, Madame President. To the question that has been posed, in deed there have been opportunities for us to take care of the very important part of the maintaining of our roads. We do not, on the Transportation Committee, neglect or intend to neglect the maintenance of our roadways. In fact, we have been trying for some time, in the past legislative session and in this one, to affect a program that is sustainable, that is reasonable, that is commonsense, and that provides jobs. That program has taken forever, it seems like to me in my frustration, and that we can't come together on that. We cannot take this pie that is given to us and continually slice it into less and less and less and expect to be able to do the job. We must make that pie bigger, even if it includes something as onerous to some as taxes. That's the only way that we have to

do it. I'm sorry, my good colleague to my right has suggested that we might be able to close some of our roads and some of our bridges. That is not an acceptable alternative for me, for the Transportation Committee, and it ought not to be an acceptable alternative for us because it isn't for our constituents. Madame President, I wish that we would move on and support the pending motion.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, it does sound familiar to the conversation from last spring and it certainly is very frustrating from this side of the aisle. We have continually tried to put forward commonsense solutions that would try to address this problem without raising taxes. We look at the millions and millions of dollars in stimulus money that was sent into the State, yet the priorities of the Transportation Committee, or mainly the Department of Transportation, didn't seem to see the importance of plugging the leaks before putting on a new roof in the worst economic times in 40 years. It's very disappointing, from this side. Madame President, I would like to follow up and pose a question through the Chair following along the lines of the Senator from Cumberland.

THE PRESIDENT: The Senator may pose his question.

Senator **COURTNEY:** Thank you, Madame President. Has anybody on that side of the aisle proposed any solution that doesn't involve raising taxes?

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

Senator **DAMON:** Thank you, Madame President. Yes, in response to that question, absolutely yes and we've looked at finding efficiencies in our service. We've looked at trimming our staffing. We have reduced the staffing in the Department of Transportation. We've looked at engineering and how we might be able to engineer a project so that it will cost us less. All of those things have been affected, have been looked at, and have been put into place. The piece that isn't in place now is the money to do it with and if there is anyone who thinks that we can do what we're supposed to do without paying for it I can't understand it.

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

Senator **BARTLETT:** Thank you, Madame President. This debate, much like the one we had last year, clearly points to a very real problem we have in the State of Maine. We have too little money for maintenance improvements and we have too little money for capital projects. Thus, we are sitting here fighting about how to redistribute the pie. I feel a little bit like the old adage about reshuffling the deck chairs on the Titanic as it was sinking. The reality is that we have a very real problem and if we don't take responsibility, and take care of our roads, diverting money from one pot to another isn't going to save us at the end of

the day. We're going to be in a worse position. To look at it from another perspective, you are trying to balance a competing need. We do need money both in the resurfacing and in the capital projects. We have to question the wisdom, in a time when the economy is suffering, of taking money out of a capital fund, which puts a lot more people to work than a repaving project, and moving money from that pot to another. The balance has been struck based on the needs and limited resources. What we really have to decide is how we are going to allocate those in this time of severe economic recession. My hope is that we will continue to work with the Transportation Committee, with folks on both sides of the aisle, to find reasonable solutions, but simply moving money out of one pot to another is like taking money out of one pocket and putting it into another. It doesn't solve the debt problem that you have. You can also look at it from a personal perspective. We all have to make decisions about how much we are going to spend today and how much we are going to save for our retirement down the road. Few of us would say that the wise choice is to take all of your retirement money out to try to get by today. You need to try to balance those priorities. That's what the Transportation Committee has done. Trying, again, to rob one pot to try to help a little bit somewhere is not the way we are going to solve this problem. Ultimately, we are going to need more money in both funds so we can properly take care of these roads and make sure we don't have much more costly capital improvements down the road. Thank you.

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

Senator **GOOLEY:** Thank you very much, Madame President. I think that what we are trying to do here is to prevent having a tax increase on this subject. Last weekend I traveled over Route 11, going over towards Corinth. There are a lot of roads in Maine that are in poor shape right now. I went to a meeting in Vienna a couple of weeks ago. They are contemplating putting some of their asphalt maintained roads back to gravel. I think that does have merit, especially in some of the rural areas of the state of Maine. One statistic, I guess, that we have as a given now is that we did something like 240 miles of the MST, or skinny mix, last year in the state of Maine. We need to do 600 miles. That deficit, bringing that forward, makes the need there over 300 miles which has to be brought forward and then figure in the 600 miles that needs to be done this year. That brings us up to over 900 miles. The problem is just becoming more pronounced. We do need to have a meeting of the minds in this regard. This is an attempt to do exactly that. Thank you.

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

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I'll try to be very brief. I just want to follow up. I appreciate the good Senator from Hancock, Senator Damon, and his response to my question and explaining all the efficiencies and reductions in cost for the Department of Transportation, but I think the answer to my question might be a little bit different from my interpretation than what I heard because I don't think that those efficiencies, those dollars, have been put directly to maintenance surface treatment. I think there is a lot of work there. I think that when you look around and see the roof is leaking, you plug the leak. You don't buy a new roof. We heard

about shuffling the chairs around on the Titanic, which was a pretty good way to describe it. I think that shuffle had already happened previously when they took dedicated money for capital programs. We all did that and it was the right thing to do at the time, but that was before the massive decline in revenues and the worse recession in 40 years. I think having said that, there is a benefit to plugging the leaks to get through the bad times. There is a real benefit. The maintenance surface treatment, as I understand it, lasts up to seven years. If we can get through a couple of years and then we'll really have an opportunity to try and solve the problem and quit diverting Transportation dollars to other areas and make that a priority for General Fund dollars in the future, hopefully, to solve our Transportation problems. Thank you, Madame President.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you, Madame President. Could someone here in the chamber answer this question? Of the federal monies that we received what percentage is earmarked and how does that earmarking compare to the past?

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, the federal money that comes in is not to be confused with the so-called stimulus funds, because those have been brought up earlier in the day. The stimulus funds were to be used simply for capital type projects, not for the paving that we are talking about now. A big portion of them was used to rebuild the surface of I-95. That money can't be used more than once. With regards to the Senator's question on earmarks, I don't know the exact percentage that is earmarked. Some is earmarked for projects that are specific. That is, of course, what the earmark is. Others are referred to as silos of money for how that money can be spent. When we do get federal highway funds, which the State does get, some of that might be available for what we're talking about, as maintenance surface treatment, but much of it is not. If it is not earmarked specifically for a project it is specified for types of projects like bridge construction or light road building. Thank you, Madame President.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, the reason I asked the question is that I recollected that earmarking went up significantly. Somewhere around 30% of that federal money was earmarked. At least 28%. I'm not positive of that, so don't quote me. One of the issues for me, structurally the Department of Transportation's funding problems I think can go back to that spike in earmarking. I believe that there are communication problems between our

Transportation folks and our Congressional delegation. I think far too much money is dedicated to certain projects. I think if we are going to do structural changes in the future we have to do a better job of indicating to our Congressional delegation that our priorities might not be the same as theirs.

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

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I had not intended on speaking this morning but I do have a question regarding some of the discussion that has been going on. Is the goal to do a project right and cost effectively versus temporarily and more expensively? Is that what we are talking about here this morning?

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

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the chamber, I rise to try to answer that question. We always try to do the job right. With regards to the piece today, we're talking about what is referred to as MST, maintenance surface treatment. It is sometimes also referred to as skinny mix. It's that hot top layer that is put over to try to stretch the life out of that particular road section, trying to keep the water out from under it. There are a lot of things that probably should be done on a road like that, like the base should be rebuilt or the drainage should be rebuilt. Those costs range upwards in the area of \$1.1 to \$1.5 million a mile. We certainly don't have resources to do that, what needs to be done. What we try to do is to put, as I refer to it and I hope that it won't be offensive, a Band-Aid on a sucking chest wound. We are really hurting in many of our roadways and right now we are trying to put a little bit of a top coat on so that we can get another year or two out. It is designed, as somebody had mentioned in an earlier discussion, to last up to seven years. It will never last seven years on the types of roads that we are putting it on. It's the best that we can do. Sometimes it's painful to see it done because you know it's going to be so short lived. It costs about \$41,000 to surface treat a road as opposed to \$1.2 million to rebuild it correctly. To your question, no. We're not doing what needs to be done in that particular situation but we're doing what we can do and we're not doing enough of that. If I might finish this up because the Senator from Franklin said this very well, legislative-wise we had scheduled to do 600 miles of roads, to treat the surface of them, each year. That's 1,200 miles in the biennium. The cost of that, at the \$41,000 per mile, is about \$25 million in each year, \$50 million for the biennium. That would get us our 1,200 miles. The next biennium would do 1200 miles and the following 1,200 more miles. Seven years later we'd be back to the beginning. That's the schedule that we have. Last year we didn't do 600 miles, we did 253. We were only able to do 253 by the action of the legislature taking some money from the capital account and putting it towards paving, just as the good Senator has said. That means that we were short of our goal by 347 miles. If we are going to maintain our goal for this biennium then this paving season not only would we do the 600 miles that we are supposed to do but we now have to add 347 that we didn't do to that,

making it 947 miles, which would bring us to an estimated cost, to get where we are supposed to be in this biennium, of \$38.8 million more. We don't have that. That's the state of affairs that we're in and we can't get out of it by simply moving money around. Thank you, Madame President.

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

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, I honestly understand very little about road maintenance. I do know last night, watching the news, I want to say it was the city of Rockland. I'm getting a nod of the head from our Senator from Knox. They have a sinkhole that is like a crater. You can look down and see it. They've had to block it off. It is so far beyond repair that the State has agreed to go in and help them repair it because of what will happen. It's huge, even on TV it's huge. I imagine if you've seen it it looks more huge. As I said, I understand very little about road maintenance except when you see holes. The skinny mix idea, I really don't understand anything about skinny. Trust me, I don't understand that. However, I do understand jobs. In fact, I very personally understand the need for jobs. It is huge. At one time I heard for every \$1 million we spend on road construction we create about 50 jobs. I just heard the good Senator from Hancock, Senator Damon, say that we are talking \$25 million. That's a lot of jobs. That's a lot of jobs. I think that this is a good return for our investment. We need jobs. We need to get Maine working again. I hear it from both sides of the aisle. Jobs. We have road literally caving in. For every \$1 million approximately 50 jobs. \$25 million. That's something to take home. That's something to say about the entire State of Maine, we created jobs and we did it on something that needed to be done. We don't have mass transit. Our roads are the heart thoroughfare to this entire state. Our economy, our tourists, everything. Why are we having this discussion? Thank you.

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

Senator **RAYE:** Thank you, Madame President. I rise in further response to the Senator from Penobscot, Senator Schneider. The goal of this bill, that received bipartisan support in the Transportation Committee, is a modicum of cost avoidance to keep our roads from crumbling further so that even more of them do not require the more expensive capital construction of being completely rebuilt. It is a simple matter of commonsense and I hope that we will follow the lead of the good Senator from Franklin, Senator Gooley, and vote down the pending motion. Thank you.

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

Senator **GOOLEY:** Thank you, Madame President. In regards to the TransCap funding on capital improvements, I think it was mentioned that these roads can cost upwards of over \$1 million a mile but if you figure \$1 million a mile and you've got \$25 million, that's going to do 25 miles. We have 8000 miles of highway in the state of Maine. Yes, this is a stopgap measure. It's where we

are today. We're between a rock and a hard place, that's the way I like to say it. That's why I decided to support this legislation and hope that the Minority Report would pass. Thank you.

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 (#288)

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

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

EXCUSED: Senators: HASTINGS, NUTTING, SIMPSON

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators being excused, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Senate

Ought to Pass As Amended

Senator ALFOND for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Align Education Laws with Certain Federal Laws"

S.P. 588 L.D. 1532

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-373)**.

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

READ ONCE.

Committee Amendment "A" (S-373) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Off Record Remarks

SECOND READERS

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

House As Amended

Bill "An Act Regarding Gaming by Charitable Organizations"
H.P. 934 L.D. 1330
(C "A" H-611)

Bill "An Act To Amend the Charter of the Caribou Utilities District"
H.P. 1064 L.D. 1515
(C "A" H-614)

Resolve, Regarding Legislative Review of Portions of Chapter 26:
Producer Margins, a Major Substantive Rule of the Maine Milk
Commission (EMERGENCY)
H.P. 1067 L.D. 1517
(C "A" H-608)

Resolve, To Review Certification Requirements for Installation of
Solar Energy Systems (EMERGENCY)
H.P. 1098 L.D. 1556
(C "A" H-609)

Bill "An Act To Improve the Ability of the Commissioner of
Corrections To Respond in an Emergency"
H.P. 1114 L.D. 1576
(C "A" H-615)

Bill "An Act To Change the Penalties for Writing Bad Checks"
H.P. 1126 L.D. 1588
(C "A" H-616)

Bill "An Act To Authorize Sanitary Districts To Waive an
Automatic Sanitary District Lien Foreclosure"
H.P. 1127 L.D. 1589
(C "A" H-600; H "A" H-630)

Bill "An Act To Amend the Laws Regarding the Unlawful Use of
License or Identification Card"
H.P. 1140 L.D. 1612
(C "A" H-617)

Bill "An Act To Facilitate the Involvement of the Office of the
Public Advocate in the FairPoint Communications Bankruptcy
Case" (EMERGENCY)
H.P. 1171 L.D. 1643
(C "A" H-618)

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

Senate As Amended

Bill "An Act To Amend the Electric Utility Industry Laws as They
Relate to Renewable Resources"
S.P. 654 L.D. 1682
(C "A" S-372)

Bill "An Act To Make Allocations from Maine Turnpike Authority
Funds for the Maine Turnpike Authority for the Calendar Year
Ending December 31, 2011"
S.P. 669 L.D. 1746
(C "A" S-371)

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

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

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

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

Emergency Resolve

Resolve, To Support the Development of Maine's Economic Future by Promoting Science, Technology, Engineering and Math Education
S.P. 677 L.D. 1764
(S "A" S-359)

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

Acts

An Act To Update Laws Regulating the Maine Emergency Management Agency

S.P. 589 L.D. 1531

An Act To Amend the Laws Governing the We Support Our Troops Registration Plates

H.P. 1107 L.D. 1570
(C "A" H-606)

An Act To Require That Marine Resources Dealers Purchase Only from Licensed Harvesters

H.P. 1122 L.D. 1584

An Act To Provide Continued Protection of Benefits for Retirees of the Maine Public Employees Retirement System

S.P. 602 L.D. 1595
(C "A" S-356)

An Act To Expand the Use of Ignition Interlock Devices

H.P. 1137 L.D. 1609

An Act To Make Technical Changes to the Laws Governing the Practice of Law

H.P. 1150 L.D. 1622

An Act To Enhance the Small Enterprise Growth Fund

S.P. 624 L.D. 1659

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

An Act To Fund the Maine Downtown Center

H.P. 75 L.D. 91
(C "B" H-607)

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

Resolve

Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

S.P. 591 L.D. 1533

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

Off Record Remarks

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

Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, February 23, 2010, at 10:00 in the morning.