

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fifth Legislature

State of Maine

Daily Edition

First Regular Session
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STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Wednesday
May 25, 2011

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Pastor Timothy Gillam, Cornerstone Baptist Church, Camden.

PASTOR GILLAM: Our Father, we are very pleased to come before Your presence and to be able to address You with such an intimate name as Father. Father, we pray that You would direct and guide in this hallowed place. The scriptures tell us that government is ordained by God and so we are very thankful for the kind of government that we enjoy in our free land. We pray this day, as Senators work in the affairs of men, that they will ultimately have the mind of God. Direct, guide, and bless this hallowed place. In Jesus' name, Amen.

Pledge of Allegiance led by Senator Garrett Paul Mason of Androscoggin County.

Reading of the Journal of Tuesday, May 24, 2011.

Doctor of the day, Dr. Steve Diaz, MD, FACEP of Fairfield.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 402

STATE OF MAINE
125TH LEGISLATURE
OFFICE OF THE PRESIDENT

May 24, 2011

Honorable Joseph G. Carleton
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Carleton:

In reference to the action of the Senate earlier today in which it Insisted and Joined in a Committee of Conference on L.D. 1110, "An Act Regarding the Attendance of Attorneys at Pupil Evaluation Team Meetings" (H.P 822) I am pleased to appoint the following as conferees on the part of the Senate:

Senator Garrett P. Mason of Androscoggin
Senator David R. Hastings of Oxford
Senator G. William Diamond of Cumberland

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Kevin L. Raye
President of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 399

STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

May 24, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

- L.D. 508 An Act To Adjust Certain Age Limits in the Laws Concerning Sex Offenses To Further Protect Minors
- L.D. 638 An Act To Require Sex Offenders To Complete Their Full Time on the Sex Offender Registry
- L.D. 740 An Act To Amend the Sex Offender Registration Laws
- L.D. 1421 An Act To Reduce the Cost of Delivery of State and County Correctional Services

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

Sincerely,

S/Sen. Garrett P. Mason
Senate Chair

S/Rep. Gary E. Plummer
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 400

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

May 24, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

L.D. 1471 An Act To Require Voter Validation for a School Administrative Unit To Retain Ownership of a School No Longer Used Primarily for Classroom Education

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

Sincerely,

S/Sen. Brian D. Langley
Senate Chair

S/Rep. David E. Richardson
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 401

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON LABOR, COMMERCE, RESEARCH AND
ECONOMIC DEVELOPMENT**

May 24, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

L.D. 43 An Act To Repeal the Maine Uniform Building and Energy Code

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

Sincerely,

S/Sen. Christopher W. Rector
Senate Chair

S/Rep. Kerri L. Prescott
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing the Sale of Certain Tobacco Products"

H.P. 831 L.D. 1119

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

Signed:

Senators:
McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

MALABY of Hancock
O'CONNOR of Berwick
PETERSON of Rumford
SANDERSON of Chelsea
SIROCKI of Scarborough
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-310)**.

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
FOSSEL of Alna
SANBORN of Gorham

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

Reports **READ**.

Senator **McCORMICK** of Kennebec 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.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Raise the Minimum Wage"

H.P. 340 L.D. 447

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

Signed:

Senators:

RECTOR of Knox
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham
DOW of Waldoboro
NEWENDYKE of Litchfield
VOLK of Scarborough
WINTLE of Garland

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

Signed:

Senator:

JACKSON of Aroostook

Representatives:

DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
TUTTLE of Sanford

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

Reports **READ**.

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

On motion by Senator **ALFOND** of Cumberland, 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 Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today to ask you to vote against the pending motion. The bill would give minimum wage workers a 25¢ an hour increase over the next two years. It would be 50¢ all totaled. In earlier debates in this Chamber we heard how these workers could stand four extra hours a week, it would give them \$28 more a week for spending. This law would give them \$10 extra a week for spending. It seems like a very small amount of money, but to a lot of these people it is certainly something to help them with all the rising costs that they have; gas, the cost of food, and all these things. It seems like such small amount to give someone. It's almost hard to even ask for such a little amount. We've done a lot of things in this Chamber to help people that are considerably wealthy. I think it's appropriate to help those who are less fortunate and that are poor. I don't know. I've implored people in the past. I know things are tough at times for businesses, and I understand that, but I certainly believe and it's a belief of mine that if you put money in people's pockets that money gets spent in the economy and it helps businesses. I'd have a hard time telling someone that was asking for 25¢ more an hour that they wasn't worth it or wasn't getting it. I'd ask you to vote against the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this is one of those issues that I'm afraid some of my colleagues on the other side of the aisle are just looking at the world through a different lens than I. As a small business owner I can tell you that I pay my employees as much as I possibly can afford because they are the heart and soul of my business. There is nothing more important than keeping them, having them satisfied, and having them as well rewarded as they possibly can

be. I think I actually am reflective of the business community as a whole. I think that you would find that business owners are doing what they can to pay as much as they can. When the State steps in and takes away their market opportunity to determine what wages they can afford I'm afraid the State is stepping into an area that is troubling to me, troubling in a context of one of the weakest economies that we have had in anyone's memory probably in this space. It is troubling because I think the choice needs to be there, the value needs to be there, and you will find that employers will make those payments, whatever that wage may be. I think the obligation, and what we should be looking at here, is how to educate, better train, and better equipment our workforce with the skills that they need to be high wage earners. I think we have that ability and I think those are some of the initiatives that we've been working on in this session of the Legislature and in others. I look forward to continuing that work so that everyone's wages are greater than today's. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I guess I do look through a different set of lens because I remember my daughter, who is now up in the Lincoln area, while she worked her Summers. After college she went to work down in Boothbay. It was amazing that my daughter started off in a little Mom and Pop shop at \$8 an hour. Within two weeks they gave her a dollar raise, to \$9 an hour. About two weeks later they gave her a raise to \$10 an hour. I asked my daughter, "Why are you getting these raises, Emily, because this is a little small business that, to me, their margins are fairly small, as most small businesses are?" She said, "Dad, it's because of my work ethics and because of the honesty and integrity that I bring and that the employers said that if they paid workers minimum wage that those are the ones they had to worry about stealing from them. If they find an employee that shows a little more initiative and a lot more trust they are willing to pay that extra, which is actually taking a little bit from their margin." At Christmas time my daughter went to work in Rumford. There, again, she got \$8.50 an hour. I asked the employer, "Why are you giving her that much more than minimum wage?" The answer was the same thing, because of her honesty, her integrity, and a workforce in which they had experience with the minimum wage people. In some instances, not all because I think there are an awful lot of great people who work for minimum wages, those that showed that little bit more initiative and proved their leadership abilities and their ability to be more trustworthy are warranted that extra rate. I have no problem taking a look at the 25¢ increase because I think it is small.

From the standpoint of what I believe was a Depression, although they say it was a severe recession, I think it was a year and a half ago that they said it was over, although the state of Maine, I think, is in as quite a robust economy as economist throughout the whole United States of America say that we're in. I would just say that if the recession is over and things are headed in the right direction, this may be the time to do it. Thank you, Mr. President.

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

Senator **HOBBS:** Thank you Mr. President. Men and women of the Senate, it seems like yesterday that I stood on the floor of the House of Representatives, having served on the Labor Committee during that session and having been a sponsor of the minimum wage bill. That bill was to increase the minimum wage in 1973 from \$1.80 to \$2 an hour. It was very hotly contested, probably more hotly contested than today's bill. Interestingly enough, it was just about this time of year that the bill came out of the Labor Committee. Obviously, it came out as a divided report. Back then it was a similar circumstance. I was in the Minority Party. The bill came out of the Labor Committee with almost a divided report by political parties, but there was one individual from the other party who came from a mill district and who represented a town near Orland or around there. The interesting part about this is that the same arguments that were raised on the floor debate today were raised back in 1973. Quite frankly, I came from a mill working area of Biddeford and Saco. I represented the City of Saco back in 1973. There still was an issue back then where, quite frankly, a 10¢ or a 20¢ raise at that time was a significant raise because the economy, as you all remember, was somewhat on the downturn. We had the automobiles that lined up to get gasoline in those days because of the embargo by the Arabs. Things are, unfortunately, in Maine similar to the times we have now. What has changed is the minimum wage now is a lot higher, but, ironically, that \$7.50 doesn't buy as much as it did back in 1973 when we were arguing over minimum wage from \$1.80 to \$1.90. The interesting part about that issue is that when it finally passed in an environment where I was in the Minority Party I was pretty tenacious at that point in my life and we were able to pass a minimum wage, with bi-partisan support, of \$1.90 an hour. It was, quite frankly, for a professional legislator, an important vote.

The words I used in my floor debate back then was that, believe it or not, this little amount of money could buy another loaf of bread or another bottle of milk. The same is true today. It doesn't sound like a lot because most employers in the state of Maine are very responsible. They do what they can do to pay what they can, given the circumstances of today's economy. This bill is one that the Legislature acts as an agent for those individuals that are unrepresented by labor unions or that are unrepresented because of maybe their social or economic class. The fact that they don't go to community colleges sometimes, they don't go to universities, and they have a difficult time with things. They are vulnerable. This bill is, I think, symbolically the same as it was back in 1973. This bill, I think, is a responsible vote. We talked about livable wage back in 1973 and are talking about that term today. This bill doesn't get us even close to a livable wage. The irony is that back in 1973 a raise of 10¢, in the end, did not bring a livable wage or get us close to a livable wage. What it is is symbolic. Besides being symbolic, it will mean more money in the pockets for essential services and for individuals to at least have the dignity to know that their government is looking out for the little person. Thank you.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, first of all I'd like to commend Representative Tuttle and the co-sponsors for addressing this issue of how to help the working poor. Legislators often view the minimum wage as the best vehicle to help the working poor, but they are wrong to do so.

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum wage laws, according to Nobel Prize winning economist James Tobin. In front of the U.S. House of Representative's Financial Services Committee Alan Greenspan testified, "The reason I object to minimum wage is I think it destroys jobs." I think the evidence of that is overwhelming. It is important to ask who actually earns the minimum wage? According to U.S. Government data in 2006, only 14% of minimum wage recipients were raising a family on the minimum wage. The remaining 86% were teenagers who were living with working parents, adults living alone, or dual earner married couples. I can attest to that fact. My employees who make minimum wage are kids of doctors and nurses, campground owners, pharmacists, and a counselor. Half of my employees are technically minimum wage earners but make over \$22 per hour as tipped employees. This corroborated by Clinton's Secretary of Labor, Robert Reich, who stated, "After all, most minimum wage earners are not poor." A Democratic leadership counsel also stated, "The vast majority of minimum wage workers are in families that don't need public wage support because their incomes are well above the poverty level."

What are the effects of minimum wage hikes? The chief effect of a higher minimum wage today would be to increase incomes not for the working poor people but for a group of workers who are predominately part-time, second earners of middle class families, as quoted in the Washington Business Journal. A case study in the State of New York after the 2007 minimum wage hike from \$7.15 to \$8.25 resulted in an estimated 16,000 jobs lost. I have that 52 page report in case anyone is interested. Beyond the loss of jobs, other intended consequences are equally damaging to working poor. Nobel Prize winning economist, Milton Friedman, points out, "The high rate of unemployment among teenagers, and especially Black teenagers, is both a scandal and a serious source of social unrest. It is largely the result of minimum wage laws." Another study from Duke's found that minimum wage increases attract teenagers from high income families into the labor market, displacing previously employed low skilled employees.

In my own operation I see raising the minimum wage as stealing income from my skilled workers. Business income is finite and labor costs are a major expense in my industry. Most minimum wage employees come in with no skills and have to be supervised closely and make many mistakes. When the minimum wage is increased, combined with slumping sales, the skilled workers lose out. There is no room to reward the skilled employee if all the money for pay raises is dictated arbitrarily by minimum wage increases. Please realize that as soon as my minimum wage employees become skilled they are no longer minimum wage employees. As the good Senator from Oxford, Senator Patrick, pointed out with his own daughter, my sous chef started out making minimum wage as a dishwasher and now makes over \$20 an hour. I dare to state that anyone in this room that started out making minimum wage no longer does so, but I'm not including our pay in that calculation. In conclusion, the idea of using the minimum wage to overcome poverty is old, honorable, and fundamentally flawed. It's time to put this debate behind us and lead the way to finding a better way to improving the lives of people who work very hard. I urge you to vote to support this.

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

Senator **BARTLETT:** Thank you Mr. President. There have been for decades arguments against minimum wage based on the fact that it benefits those who are better off, better off teenagers to be specific. There have been arguments that it will reduce the level of employment and the economy by making hiring workers more expensive. There have been arguments that it will negatively impact folks who make more money because of the issue around raises that they face. Every time there has been a minimum wage increase economists have studied the impact and they've never found any of these terrible things to come to pass. That's irony. If we really want to look at what are the economic effects let's look at the economic analysis after the increases go into effect. What they find is that there is no measurable loss in employment as a result. There is no parade of horrible things that are happening. There are an awful lot of people who are working poor that are working one, two, or even three minimum wage jobs, trying to make ends meet. It is fine to say that they should get better skills and more advance skills, but it's pretty hard to do when you are working three minimum wage jobs to desperately try to put food on the table for your family. This is not going to hurt Maine's economy. It's going to help the least among us in the economy. Over time it can help to reduce the need for some of the social programs that are on the chopping block every couple of years in our budgets. If we really want to help people, we need to make sure they can earn a good living. We shouldn't stop with the minimum wage. Minimum wage is step number one. Then we need to work on better training programs to help those people to move up, help those people to start businesses, and help those people to get the skills that they need to make more money and move off of some of the safety net programs that we put in place. This is one small step. The negative consequences that we hear about have never come to pass. Let's do this for the people of Maine. They deserve it.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I'd just like to get up one more time to touch upon a couple of points my good friend from Hancock, Senator Langley, has made. Alan Greenspan, a federal chairman, one of the greatest things he had was to coin the phrase, "Irrational exuberance". I would have to say, out of my knowledge of Alan Greenspan and the Federal Reserve, that I think he was one of the greatest persons to help drive the American economy into the tank. What has happened in the Maine economy is unique. Our wonderful employers, especially our big ones like Wal-Mart and Hannaford, have become employers that have gone from hiring people for 40 hours a week at minimum wage to now giving them 16 to 24 hours a week. Instead of hiring, like in my town, 30 or 40 people they have 70 people at 16 hours. What has that done? I think Wal-Mart and Hannaford are two of the biggest abusers of Mainecare. All this small amount, 25¢, is going to do is help someone buy a little more milk or a little bit more break or whatever they need. There are those families that, as have been said and I know many in my district, are on minimum wage because that's all they can find.

I actually went to Bangor on day to testify to U.S. trade representative, Rob Portman, on behalf of the people of Oxford County because in Oxford County there is well over 48 businesses that have shut down. None of the businesses shut

down because of the minimum wage. They actually all paid more than that. There is a thing called international trade agreement that have actually changed the dynamics of the whole American economy and has exactly driven our jobs to China. China is not doing all that well themselves. A magazine I have basically says Chinese workers find prosperity allusive. Hidden income and kick backs benefit rich elitist and not the masses. With rising prices people feel the quality of life has gone down. Even China's income has gone down because those that are in the upper echelon don't want to give the little guys a break. I would just say that this little bit is not going bankrupt anyone and it's actually going to help those that really need a helping hand, the Maine low income workers. It will never get them out of poverty. Half the problem that we have is that we're finding ways to help them get insured if they are 200% or 300% below poverty. I don't know how we're ever going to get them above the poverty level because all people want to do is go to work. If they can find a job, if jobs ever do come to Maine because this is the job administration and I'm praying that it happens and that we can all have a hand in making jobs come, this little bit will help those at the bottom end of the rung find a little bit of foresight and happiness and at least the Legislature has done something. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I've been employing people since 1973 and I guess I've had it all wrong. I've had people steal from me. I never thought of giving them a raise to cure their habit. I always got rid of them. If there is a group of low income workers in Maine it's the small business owner. I know small business owners that are suffering more now than they ever have; \$4 a gallon fuel, taxes that are high, and electric rates that are high. If there is a group of people we want to help I would think it would be the small business owner who creates the jobs that we're talking about. This bill hurts them. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, that one got me on my feet. This has nothing to do with us. Today it's about who we're here to fight for; people. People who own businesses and people who work at businesses. Don't forget, minimum wage raises the tide for all ships. It helps that small business owner, which I was one of, and it also helps that person that's making low wages, which I was once one of. If we want to help Mainers come out of this let's do something that helps Mainers come out of this recession. Don't forget who put us in it. It wasn't the people of this country that put us in this recession; it was a lot of those businessmen that put us in this recession. Don't forget, it wasn't the American people that were being greedy; it was a lot of business people that were being greedy. This is one of those times when I'm very proud to stand on this side of the aisle and argue this point because it's the people of my district and every district in the state of Maine that should be helped to get above it all. It was proven during the worse recession in this country's history, which was called the Depression, when we created minimum wage and when we started regulating some of the businesses in this country to start

treating people more fairly, that we came out and created the middle class and the working people of this state and this country. I implore all the members of this Body to start taking care of your own. Raising that minimum wage isn't going to happen today. I know that. I can count, folks. Start remembering that when you start raising minimum wage, and start creating better conditions for people, all of us are going to be better off, not just some. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, in parts of the state of Maine minimum wage is not an issue. The competition for workers is incredible. They don't pay minimum wage at McDonald's in Southern Maine. They pay way more because there is a competition for a workforce that they will bid and try to get. The other end of being paid is recognition of your growth. I had a young lady at the local market say to me, "I've never gotten a raise because I deserve one; I've only gotten a raise because the State of Maine told my boss he had to give me one." He tells her she does a good job, but he never gets a chance to give her a raise on his own because he's always trying to keep up. It's nice when the government says that you will pay someone extra, but there are costs involved. Every 25¢ or 10¢ or \$1 has a matching tax, has a matching cost that goes with it from Workers' Comp, unemployment, and to the Social Security part. When you say it's only going to cost 25¢ per hour remember that there is an added cost that can go as high as double or more of that 25¢ per hour, to be absorbed by the employer. You're not just asking the employer to give 25¢. You have to build in the cost drivers. You all want them to have Workers' Comp. You all want them to have unemployment insurance. You all want them to be covered by Social Security. When you do that, keep in mind that it's not 25¢ an hour any more.

I worked for minimum wage for a very short period of time in my life because I went the extra mile and I made myself more available. I made myself the person that they wanted to call in and be the one that they could depend on. My family has always been that way. My husband used to work for \$1.20 an hour. He's not making \$1.20. I tell you the only reason he is making what he is is because he worked at McDonald's and learned the hard way how to run a business.

The people I worry about getting an increase on minimum wage are the kids that I have told you about, young adults who are turning down raises at their current employers because they are going to go off assistance if they make more money. Can I repeat that? Young men with families are turning down raises and are forbidden from working overtime because every quarter DHS asks them to come in with their paychecks. Every once in a while they try to work a few extra hours so they can pay for the flat tire. When they come in they get caught. The food stamps go down. They live on the edge of losing their insurance.

I heard that a rising tide floats all boats. Well, when Maine's policies start to attract the water that will raise a tide then you will see the boats start to rise in places besides York and Cumberland Counties. You will see that move up the Interstate and perhaps move to our counties like Aroostook County and Washington County where, by the way, job offers of \$10 an hour go unanswered and unfilled because \$10 an hour means you can't qualify for the assistance you so badly need. If \$10 an hour won't do it, \$7.50 won't do it, and \$7.55 won't do it. What will do it is us

turning around our attitude towards attracting businesses here and making sure that we look like other places in the United States, where you walk through the door and you're not talking about an \$8 an hour job at McDonald's. You are talking about a lot more because your skill level is suitable to get you into that entry level position.

I'll tell you one more story. My brother makes arms and legs, he's a prosthetic technician. In the 1980's, when U.S. Steel closed, where people were making \$24 an hour and more and tens of thousands of people walk out and the gates shut behind them, my brother made arms and legs with computer technology. He made minimum wage. Why? Because he had a job and he was one of the few people in Birmingham, Alabama that year that had a job. He was glad to have it, but he certainly was not being paid anywhere near what he was able to make in other markets. That's because the market around him collapsed. When the market collapses it's very unfortunate. When people came back it was not the same situation in Birmingham. It was very hard. They have attracted three major car dealers who have invested \$6.2 billion and the wages in Alabama have gone up. I can tell you that you have to watch your policies. You have to be diligent in how you appear to the people who will invest. You have to recognize that even a good thing can hurt some of the people that you want to help the most. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. I just want to respond to a couple of comments that I heard. First that there are not workers in the southern part of the state who receive the minimum wage. I can assure you that this is not true. There are plenty of workers in Portland and surrounding communities, entry level positions, that are paid the minimum wage. A lot of these are cashier type positions. To give you a sense of some of the people who are on minimum wage; I represent injured workers on Workers' Comp cases. Very often it is somebody who has worked 15, 20, or 25 years in the manufacturing industry making good money; \$20 or even \$25 an hour. Then their back goes out and they can't do it any more. What do they get stuck doing? They have a limited education; maybe a junior high or high school education. What they end up doing is going to those minimum wage jobs because it's the only thing that's available to them because they don't have skills outside of the very physical type of work. This minimum wage issue touches real people in Maine as they try to better themselves.

As a side note, it should be noted that if you raise the minimum wage you will lower some of your Workers' Comp costs because if someone has the ability to work a figure that is often used if they have no other skills for imputing earnings or the expectation of what they can do is the minimum wage. It's not as clear cut as you may think in terms of what the costs are to businesses, not to mention the fact that if you can pay somebody a little more then they don't have to work the second job and are more likely to show up on time and be a more reliable employee. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today just to add to the debate. We've heard,

and for good reason, that one thing we all want to work towards is raising our personal per capita income in this state. We lag behind. I believe we're approximately 92% of the national average, ranking nearly 30th in the country, at approximately \$3,000 on average. Yes, it is an average. We need to work on all levels. This bill will help that average and bring greater economic prosperity to the state. Just yesterday we were debating, at length, the estate tax. We talked at length about many other bills dealing with tax treatment. I do not mean to shift this towards a tax debate, but we have to look at what our priorities are and there seems to be a clear divide. In addition, earlier this year we talked at length about child labor issues. We talked about giving more tools to kids in high school to help their families that needed the assistance. One of the rationales was to bring greater income to that family by allowing those children to work longer. This Body voted to allow that to occur. This bill would be another tool to allow those same high school kids to bring greater income to their families. We should try to be consistent. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector 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 (#103)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, HILL, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, DIAMOND, DILL, GERZOFKY, GOODALL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

ABSENT: Senator: CRAVEN

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **RECTOR** of Knox to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

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

The President took a seat on the floor.

The Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

Senate

Ought to Pass As Amended

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Use of the Electronic Death Registration System"

S.P. 392 L.D. 1271

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-157)**.

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

READ ONCE.

Committee Amendment "A" (S-157) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **MARINE RESOURCES** on Bill "An Act To Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters" (EMERGENCY)

S.P. 494 L.D. 1547

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-156)**.

Signed:

Senators:

SNOWE-MELLO of Androscoggin
LANGLEY of Hancock
SULLIVAN of York

Representatives:

WEAVER of York
BELIVEAU of Kittery
CHAPMAN of Brooksville
KNAPP of Gorham
KUMIEGA of Deer Isle
MacDONALD of Boothbay
OLSEN of Phippsburg
PARRY of Arundel
TILTON of Harrington

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

Signed:

Representative:

KRUGER of Thomaston

Reports **READ**.

Senator **SNOWE-MELLO** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Mr. President. L.D. 1547 is "An Act To Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters". This is a really good bill that was almost a unanimous Ought to Pass report which allows these over-sized lobsters to be processed, which is really important. The processors get these lobsters and currently they can't do anything but take care of them. This allows the lobsters to be processed so they are ready for market and it is a good business bill. I hope we can get your support. Thank you.

On motion by Senator **SNOWE-MELLO** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-156) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor

S.P. 504 L.D. 1572

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

Signed:

Senators:

COLLINS of York
SULLIVAN of York

Representatives:

COTTA of China
BOLAND of Sanford
BOLDUC of Auburn
CASAVANT of Biddeford
CELLI of Brewer
GRAHAM of North Yarmouth
HARVELL of Farmington
MOULTON of York
TURNER of Burlington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-153)**.

Signed:

Senator:
THOMAS of Somerset

Representative:
KAENRATH of South Portland

Reports **READ**.

Senator **THOMAS** of Somerset moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-153)** Report.

On motion by Senator **SULLIVAN** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-153)** Report.

Divided Report

The Majority of the Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife

S.P. 155 L.D. 563

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-154)**.

Signed:

Senators:
TRAHAN of Lincoln
HASTINGS of Oxford

Representatives:
KNIGHT of Livermore Falls
BENNETT of Kennebunk
BERRY of Bowdoinham
BICKFORD of Auburn
BRYANT of Windham
BURNS of Alfred
FLEMINGS of Bar Harbor
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

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

Signed:

Senator:
WOODBURY of Cumberland

Reports **READ**.

Senator **TRAHAN** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Change the Campaign Contribution Limits"

S.P. 260 L.D. 856

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

Signed:

Senators:
FARNHAM of Penobscot
PLOWMAN of Penobscot

Representatives:
BEAULIEU of Auburn
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
RUSSELL of Portland
WILLETTE of Presque Isle

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

Signed:

Senator:
PATRICK of Oxford

Representatives:
CAREY of Lewiston
CHIPMAN of Portland
LONGSTAFF of Waterville
VALENTINO of Saco

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

Reports **READ**.

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS** Report.

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

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

Off Record Remarks

Senator **SULLIVAN** of York was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

Off Record Remarks

SECOND READERS

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

House

Bill "An Act To Increase Efficiency of the State Court Library Committee"

H.P. 935 L.D. 1276

Bill "An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse"

H.P. 1013 L.D. 1374

Bill "An Act To Amend the Winthrop Utilities District Charter" (EMERGENCY)

H.P. 1160 L.D. 1577

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

Bill "An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements" (EMERGENCY)

H.P. 105 L.D. 123

READ A SECOND TIME.

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

House As Amended

Bill "An Act To Amend the Laws Regulating Dealers of Agricultural, Light Industrial and Forestry Equipment"

H.P. 164 L.D. 187
(C "A" H-324)

Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property"

H.P. 207 L.D. 254
(C "A" H-160)

Bill "An Act To Align State Standards Pertaining to Food and Beverages outside of the School Lunch Program to Federal Standards"

H.P. 398 L.D. 505
(C "A" H-297)

Bill "An Act To Modify the Regulation of Fireworks"

H.P. 406 L.D. 523
(C "A" H-328)

Bill "An Act To Exclude Cupolas from the Measurement of Height for Structures in the Shoreland Zone"

H.P. 435 L.D. 552
(C "A" H-305)

Bill "An Act To Protect Owners of Private Property against Trespass" (EMERGENCY)

H.P. 442 L.D. 559
(C "A" H-312)

Bill "An Act To Change the Coyote Night Hunting Law"

H.P. 687 L.D. 927
(H "A" H-290 to C "A" H-246)

Resolve, To Adjust Composting Limits for Farms

H.P. 713 L.D. 969
(H "A" H-233 to C "A" H-196)

Bill "An Act To Increase Recycling Jobs in Maine and Lower Costs for Maine Businesses Concerning Recycled Electronics"

H.P. 725 L.D. 981
(C "A" H-315)

Bill "An Act To Amend the Laws Governing Comprehensive Planning To Encourage the Development of Affordable Housing"

H.P. 743 L.D. 1007
(C "A" H-320)

Bill "An Act To Limit Interest Assessed against Municipalities"

H.P. 984 L.D. 1343
(C "A" H-323)

Bill "An Act To Provide a Sales Tax Holiday Weekend"

H.P. 1017 L.D. 1384
(C "A" H-288)

Bill "An Act To Restore Exemptions in the Natural Resources Protection Act"

H.P. 1020 L.D. 1387
(C "A" H-317)

Bill "An Act Concerning the Labeling of Maine Shellfish Products"

H.P. 1035 L.D. 1409
(C "A" H-321)

Bill "An Act To Streamline the Waste Motor Oil Disposal Site Remediation Program" (EMERGENCY)
H.P. 1055 L.D. 1434
(C "A" H-318)

Bill "An Act To Modify the Laws Regarding Status as an Independent Contractor"
S.P. 437 L.D. 1420
(C "A" S-150)

Bill "An Act To Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco Use" (EMERGENCY)
H.P. 1106 L.D. 1505
(C "A" H-325)

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

Sent down for concurrence.

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

Bill "An Act To Conform Maine's Estate Tax to the Federal Estate Tax"

S.P. 347 L.D. 1147
(C "A" S-133)

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the House of Representatives
H.P. 33 L.D. 40
(C "A" H-198)

READ A SECOND TIME.

READ A SECOND TIME.

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

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

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate

Senate at Ease.

Bill "An Act To Provide That Private Transfer Fee Obligations on Real Property Are Void and Unenforceable"
S.P. 463 L.D. 1482

Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Off Record Remarks

Senate As Amended

ORDERS OF THE DAY

Bill "An Act Regarding the Saltwater Recreational Fishing Registry" (EMERGENCY)

S.P. 60 L.D. 210
(S "B" S-147 to C "A" S-136)

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.

Bill "An Act To Require the Treasurer of State To Publish All State Liabilities"

S.P. 258 L.D. 854
(C "A" S-148)

The Chair laid before the Senate the following Tabled and Later (5/19/11) Assigned matter:

Bill "An Act To Amend the Sales and Use Tax Exemption for an Aircraft Purchased Outside of Maine by Nonresidents"

S.P. 292 L.D. 946
(C "A" S-155)

SENATE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Extend the Use of Underground Storage Tanks"

S.P. 210 L.D. 721

Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program"

S.P. 436 L.D. 1407
(C "A" S-149)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-119)** (12 members)

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

Tabled - May 19, 2011, by Senator **SAVIELLO** of Franklin

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

(In Senate, May 19, 2011, Reports **READ**.)

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-119) **READ**.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-142) to Committee Amendment "A" (S-119) **READ** and **ADOPTED**.

Committee Amendment "A" (S-119) as Amended by Senate Amendment "A" (S-142) thereto, **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/24/11) Assigned matter:

Bill "An Act To Make Disputed Ballots in State Elections Public"
H.P. 225 L.D. 277
(C "A" H-178)

Tabled - May 24, 2011, by Senator **COURTNEY** of York

Pending - **PASSAGE TO BE ENGROSSED**, in concurrence

(In House, May 11, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-178)**.)

(In Senate, May 12, 2011, **READ A SECOND TIME**.)

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think we need to be aware of what's going to happen as a result of passing this. It will allow disputed ballots following a recount to be publicized. I don't think that was the intent. I might be wrong, and I'll stand corrected if that's the case. I don't think that was the original intent of at least some of the committee members when they voted this out. There have been many infamous recount cases. Let me take you to one. In 2002 the Hall - Fossel recount. That was a highly contentious recount. It was one of those where a ballot fell on the floor and was stepped on and that was challenged because it had dirt on it. There were other even more ridiculous challenges during that recount. One of the concerns that I have is about a contested, highly contentious recount that, if at the end, after the recount, has not been resolved then we allow those few ballots that have not been resolved to be made public. That, I would caution you,

really, I think, jeopardizes the integrity of the process. Our Secretary of State, over the years, no matter who it has been, has always taken great caution to make sure that the integrity of recounts stays the way they should and that they don't become subjected to all sorts of outside influences. If you can imagine what would happen if we allowed these ballots to be sent out and debated by the public. Right now we have confidence in our deliberations that are made somewhat private. Let me give you an example. Our juries. We do not expose all the evidence and the jury deliberation to the public. We do afterwards, which is fine. We don't do it before. Some of these deliberations and administrative hearings and others need to have the privacy of the process. By opening this up to the public, what we are really opening it up to are special interests. I would ask you to think in your mind of the most heinous special interest that you think you would not agree with and then think about that special interest group that will be spending a lot of money trying to influence the outcome of those final few ballots, the outcome that would be deliberated, maybe in court. I would just caution us all about what we're doing here if we decide to take this process at this point. There is nothing wrong with exposing these ballots after the process is finished. That's not a problem at all and that should happen. During the deliberation process we need to be very careful that we protect the integrity of how we finally come to a decision on who won that seat. Remember, this only pertains to the House and Senate, the Legislative seats. I would ask you to think carefully about this. Maybe ask more questions if you have them, but let's not quickly just pass this the way it's written. We could easily solve this problem if we simply amended this to make sure that we protect that process until the decision had been made. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I thank the good Senator from Cumberland, Senator Diamond. It is my recollection that we were going to make this available after the decision because I think that's all we need is more of a dog and pony show trying to relate to the election process. I think we want to have it as efficient and effective as we can. I would be in support of amending it to make sure that the intent was extremely clear on this. I would vote that we probably table this until later in today's session, until we can make the amendment available. Thank you.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing the Sale of Certain Tobacco Products"
H.P. 831 L.D. 1119

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

Minority - Ought To Pass as Amended by Committee
Amendment "A" (H-310) (5 members)

Tabled - May 25, 2011, by Senator **McCORMICK** of Kennebec

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

(In House, May 24, 2011, the Majority **OUGHT NOT TO PASS**
Report **READ** and **ACCEPTED**.)

(In Senate, May 25, 2011, Reports **READ**.)

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of
the Senate, I am proud to say that I serve on the Health
Committee and it often surprises me with the unhealthy items that
are voted unanimously out of our committee. This was one of
them. It wasn't voted unanimous. I rise to speak to the Minority
Report. This addresses flavored tobacco rolling papers. When I
asked what people do with that, this is what they told me. People
buy it to reroll their little cigars in it to make them smell better or
taste better. They roll their own, which means you buy loose
tobacco and then you make your own little cigarettes out of them,
which is cheaper than buying packaged cigarettes. You can roll
anything else in there that you'd like. The flavors were just
endless; orange flavored, apple favored, cherry flavored, very
exotic fruit flavors, and all sweet and definitely targeted at young
people and young children. In my opinion, for tobacco companies
to keep selling their product they have to get young people to use
their product and get addicted to those products. Truly, they are
very unhealthy.

I learned a lot, as well, during the public hearing for this bill. I
understood that a couple of sessions ago we banned all flavored
cigars and cigarettes from the market in Maine, but somebody
brought us a basket full of flavored cigars. They are pink, green,
and blue, and they are blueberry and, you know, all kinds of
flavored ones that have slipped in between the legislation that we
passed. These are being sold legally, actually. I have never
seen them on the shelves, but they are somewhere on the
shelves. Young people know about them. They are palatable for
them to get used to tobacco use and used to nicotine. I think that
if we are responsible and we care about our constituents, we will
vote in opposition to this measure and vote Ought to Pass on the
Minority Report. Thank you, Mr. President.

On motion by same Senator, 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 (#104)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND,
FARNHAM, GERZOFKY, HASTINGS, JACKSON,
KATZ, LANGLEY, MARTIN, MCCORMICK,
PATRICK, PLOWMAN, RAYE, RECTOR, ROSEN,
SAVIELLO, SHERMAN, SNOWE-MELLO,
THIBODEAU, THOMAS, TRAHAN, WHITTEMORE,
WOODBURY, THE PRESIDENT PRO TEM -
GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN,
CRAVEN, DILL, GOODALL, HILL, HOBBS,
SCHNEIDER, SULLIVAN

25 Senators having voted in the affirmative and 10 Senators
having voted in the negative, the motion by Senator
McCORMICK of Kennebec to **ACCEPT** the Majority **OUGHT**
NOT TO PASS Report, in concurrence, **PREVAILED**.

Senate at Ease.

Senate called to order by President Pro Tem
GARRETT P. MASON of Androscoggin County.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INSURANCE AND FINANCIAL SERVICES**
on Bill "An Act To Clarify and Update the Laws Related to Health
Insurance, Insurance Producer Licensing and Surplus Lines
Insurance"

H.P. 1138 L.D. 1551

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 **MARINE RESOURCES** on Bill "An Act To Continue Limited Entry in the Scallop Fishery" (EMERGENCY) H.P. 274 L.D. 348

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-333)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-333)**.

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

READ ONCE.

Committee Amendment "A" (H-333) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on State and Local Government To Make Necessary Changes to the Maine Administrative Procedure Act" H.P. 837 L.D. 1125

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-334)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-334)**.

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

READ ONCE.

Committee Amendment "A" (H-334) **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. 1077 L.D. 1468

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-336)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-336)**.

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

READ ONCE.

Committee Amendment "A" (H-336) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Require That the Secretary of State Certify the Qualifications of Candidates for Legislative Office" H.P. 229 L.D. 285

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-341)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-341)**.

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

READ ONCE.

Committee Amendment "A" (H-341) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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 Access to Veterinary Medicine and Improve Veterinary Care

S.P. 431 L.D. 1391
(C "A" S-123)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Increase the Availability of Lead Testing for Children
S.P. 89 L.D. 300
(C "A" S-129)

An Act Relating to Inspection Requirements for New Motor Vehicles

S.P. 141 L.D. 437
(C "A" S-121)

An Act To Review State Water Quality Standards
S.P. 148 L.D. 515
(C "A" S-130)

An Act Relating to Sales Tax on Certain Rental Vehicles
S.P. 191 L.D. 611
(C "A" S-126)

An Act To Speed Recovery of Amounts Due the State
S.P. 336 L.D. 1103

An Act To Amend the Laws Governing the Address Confidentiality Program

S.P. 407 L.D. 1310

An Act To Require the Department of Health and Human Services To License Families To Provide Care for Children in Foster Care
S.P. 411 L.D. 1334

An Act To Update and Improve Maine's Laws Pertaining to the Rights of Persons with Intellectual Disabilities
S.P. 495 L.D. 1548

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

An Act To Modify the Process Regarding the Return of Unfit Tobacco Products

S.P. 198 L.D. 617
(C "A" S-125)

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

An Act To Promote the Establishment of an Adult Day Health Care Program for Veterans in Lewiston

S.P. 277 L.D. 873
(C "A" S-128)

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

An Act To Amend the Nonresident Income Tax Filing Requirements

S.P. 446 L.D. 1440
(C "A" S-134)

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

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

RECESSED until 4:00 in the afternoon.

After Recess

Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

Senator **SNOWE-MELLO** of Androscoggin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

ORDERS OF THE DAY

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the House of Representatives
H.P. 33 L.D. 40
(C "A" H-198)

Tabled - May 25, 2011, by Senator **COURTNEY** of York

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

(In House, May 23, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 24, 2011, Reports **READ**. Motion by Senator **THOMAS** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**. The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**. **READ ONCE**. Committee Amendment "A" (H-198) **READ** and **ADOPTED**.)

(In Senate, May 25, 2011, **READ A SECOND TIME**.)

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

The Chair laid before the Senate the following Tabled and Later (5/3/11) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Allow a Tax Credit for Tuition Paid to Private Schools" S.P. 325 L.D. 1092

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-60)** (8 members)

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

Tabled - May 3, 2011, by Senator **TRAHAN** of Lincoln

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 3, 2011, Reports **READ**.)

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

The Chair laid before the Senate the following Tabled and Later (5/18/11) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit" H.P. 632 L.D. 835

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-216)** (12 members)

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

Tabled - May 18, 2011, by Senator **TRAHAN** of Lincoln

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

(In House, May 17, 2011, 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-216)**.)

(In Senate, May 18, 2011, Reports **READ**.)

Senator **TRAHAN** of Lincoln requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/24/11) Assigned matter:

SENATE REPORT - from the Committee on **TAXATION** on Bill "An Act To Allow the City of Bangor To Replace the Bangor Auditorium and Civic Center at the Bass Park Complex" S.P. 283 L.D. 895

Report - **Ought to Pass**

Tabled - May 24, 2011, by Senator **COURTNEY** of York

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 24, 2011, Report **READ**.)

Report **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/24/11) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Permit Persons To Perform Simple Electrical Repairs under Limited Licenses" H.P. 591 L.D. 784

Report "A" - **Ought Not to Pass** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-300)** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-301)** (1 member)

Tabled - May 24, 2011, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **RECTOR** of Knox to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, May 23, 2011, Report "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300) READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-300).)

(In Senate, May 24, 2011, Reports READ.)

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I rise in objection to the pending motion. To me, this is a fairly simple adjustment that had been proposed by the sponsor. The copy of Amendment "A" is what I'm going to refer to. This would allow very simple adjustments to switches and to I think just some very minor electrical installations. I'm very much in favor of small business and I know that sometimes it's hard to get somebody to come for just a really simple little job that maybe you don't want to do. Perhaps you are having some other work done and that other work might be some other things, odd jobs, around the house. Somebody may have some experience doing some minor electrical work. My colleague, the Senator from Sagadahoc, Senator Goodall, has just done his entire house all by himself. Complete wiring and everything. He's a good example of somebody who has some expertise, perhaps, in how one can do a lot of tasks on their own. That's completely legal under law right now, by the way. He might be able to come over to my house and fix a couple of things that perhaps I might ask him to do, because he has such good expertise on this. Under current law I could not do that and compensate him for that. This change would actually allow that to occur and I think that this is just a itty bitty little thing that would allow somebody like my Senate colleague, who's just redone his entire house on his own, to come and do just a couple of little things for me at my house and I could still compensate him. I'm hoping that we can make this little tinny adjustment to the law that would allow for that. It's done in other states. We often look at New Hampshire for examples. I've been told even by people who are in opposition to this that there is no change in all the safety issues that might arise. This fear of horrible things happening has not occurred in our neighboring state. I think it's going to be okay if we do this. I'm hoping that you will vote against the pending motion with me. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this is a bill that we have heard repeatedly in the past. I've got to tell you a simple repair can have catastrophic results. What we are doing in this amendment is providing an exemption from any licensure, from any requirement, for any skills to be demonstrated.

I want to give you an example. I live in a house that was built in 1853. I had a switch that failed. I've done a little bit of home wiring myself. I replaced that switch myself with no ill effects. Later on I had an electrician come in and replace some old wiring in that same house. Some of the wiring that he replaced was in this spot where I had a gang of four switches, including the one that I had replaced earlier. There was a spot in the plaster lath cut and those switches were screwed to that plaster lath. I had balloon construction. He took the switch plate off and said to me,

"You are so lucky your house didn't burn down." I happen to sleep on the third floor so I'm lucky that I wasn't burned alive. He said, "This is a home built with balloon construction and there is no box there." The protective box that would normally be there. I didn't know that. He knew that because he's a licensed electrician. I'm not sure that someone with no licensure, who does home repairs, would have knows that either. They would have done the same thing I did. Worked before, should be fine, no problem.

The other thing that I would advise is that, if you look at the homes in Maine, we have the oldest housing stock in the nation. Do you know what that means? We've also got the oldest wiring in the nation, which means knob and tube, Romex with the metal casing on the outside, and ungrounded wires. There is no such thing as a simple wiring job. It just doesn't exist.

Some states have exemptions or have other limited licenses, including some of your New England neighbors, but we don't know what their original license base is. We don't know how they licensed their electricians or what their requirements are. In Maine we have already a home license limited license for home wiring. That license is approximately half the education requirement and half the time requirements that a journeyman's license would require. We've already taken care of those limited projects in a way that we feel is safe. I just want to remind you that the whole reason in Maine that we have licensing for professions such as electricians is because we are protecting the health and safety of our fellow citizens. That's the job of the Maine Legislature. It's the job of the Professional and Financial Regulation folks. It's the job of licensing and it's the job that we take very seriously. I would urge you to accept the Ought Not to Pass report as indicated. Thank you, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I don't know much about this issue and I'm listening with great interest to the debate. I have learned one thing. I'm going to have some wiring done in my house and I'm going to ask the Senator from Sagadahoc, Senator Goodall, rather than the Senator from Knox, Senator Rector.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, there are currently many exemptions that we have. This would just be a slight amendment to add one more exemption. I just want to read to you exemptions. Currently they do not need an electrician's license to make electrical installations in or about industrial plants, testing or repairing electrical equipment in a manufacturing plant, installing telephone cable, data communication and sound equipment, elevator mechanics, oil burner technicians, propane and natural gas installers, plumbers, or employees of waste water treatment plants making electrical installations in or about waste water treatment plants. I would submit that we already have a very long litany of exemptions here. I don't think that New Hampshire has that much younger of a housing stock, perhaps they do, but I think that they also have a lot of old houses because I've been to New Hampshire and I've seen a lot of old structures there. I don't think you're going to be creating havoc by doing this. I think this would

allow those people who have very small things to be done around the house not to have to have a person come by whose going to fix things and charge an exorbitant amount to do certain very small switches and things like that. That is a real burden. Frankly, it's even hard sometimes to find people to come and do just one little job as an electrician. I think that this is a change for the better. I don't think it's going to create problems and I think it's good for the consumer as well as small business. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm very appreciative of the good Senator of Knox and how he basically shared with us how this was not a simple bill and not a simple concept nor should we take it lightly.

In some communities, larger communities, we have inspectors. Those inspectors go and typically do a percentage of inspections on the work done by licensed professionals, licensed electricians. Portland, Bangor, Auburn, and Lewiston. It's a really nice thing. I wish the whole state could have that and hopefully someday it will. The problem I have with this bill is that in those small communities where generally those houses are old, just like most of the state, a person who is not licensed would be able to go in, not get a permit, we know they wouldn't get inspected, and then potentially they wouldn't be as lucky as the good Senator from Knox. That disturbs me and frightens me quite a bit. I don't think this is a small change. I think we absolutely should be following the committee on their Ought Not to Pass and please follow the Senator from Knox, Senator Rector's light. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. I'd like to pose a question through the Chair?

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

Senator **SCHNEIDER:** Thank you Mr. President. I would like to know why our neighboring states would allow such a bill to go forward if they would be subjecting themselves to such dangers?

THE PRESIDENT PRO TEM: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Accept Report "A", Ought Not to Pass. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#105)

YEAS: Senators: ALFOND, GOODALL, HOBBS, LANGLEY, MARTIN, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, TRAHAN, WHITTEMORE, WOODBURY

NAYS: Senators: BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HASTINGS, HILL, JACKSON, KATZ, MCCORMICK, PLOWMAN, SCHNEIDER, SHERMAN, SULLIVAN, THIBODEAU, THOMAS, THE PRESIDENT PRO TEM - GARRETT P. MASON

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator RECTOR of Knox to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**, **FAILED**.

Senator **ALFOND** of Cumberland moved to **TABLE** until Later in Today's Session, pending **ACCEPTANCE OF ANY REPORT**.

Senator **SCHNEIDER** of Penobscot requested a Roll Call. Subsequently, same Senator requested and received leave of the Senate to withdraw her request for a Roll Call.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF ANY REPORT**.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Implement the Recommendations of the Working Group Concerning Domestic Violence and Firearms"

H.P. 312 L.D. 386

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

Signed:

Senators:
MASON of Androscoggin
WHITTEMORE of Somerset

Representatives:
PLUMMER of Windham
BURNS of Whiting
HANLEY of Gardiner
LAJOIE of Lewiston
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-330)**.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta

CLARKE of Bath

HASKELL of Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Allow Law Enforcement Officers from Out of State To Carry Concealed Weapons" H.P. 339 L.D. 446

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-331)**.

Signed:

Senators:

MASON of Androscoggin

WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham

BURNS of Whiting

HANLEY of Gardiner

LONG of Sherman

MORISSETTE of Winslow

SANDERSON of Chelsea

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

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta

CLARKE of Bath

HASKELL of Portland

LAJOIE of Lewiston

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-331)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Modify the Requirement of a Permit To Carry a Concealed Weapon" H.P. 488 L.D. 658

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

Signed:

Senators:

MASON of Androscoggin

GERZOFISKY of Cumberland

WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham

BLODGETT of Augusta

CLARKE of Bath

HANLEY of Gardiner

HASKELL of Portland

LAJOIE of Lewiston

MORISSETTE of Winslow

SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-329)**.

Signed:

Representatives:

BURNS of Whiting

LONG of Sherman

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan"
H.P. 915 L.D. 1224

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-322)**.

Signed:

Senator:
CRAVEN of Androscoggin

Representatives:
STRANG BURGESS of Cumberland
EVES of North Berwick
MALABY of Hancock
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

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

Signed:

Senators:
McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:
FOSSEL of Alna
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

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-322)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-322) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Contracts Awarded by the Maine State Housing Authority for the Installation or Servicing of Energy-efficient Appliances in Low-income Households"
H.P. 885 L.D. 1194

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

Signed:

Senators:
RECTOR of Knox
MARTIN of Kennebec

Representatives:
PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
TUTTLE of Sanford
VOLK of Scarborough
WINTLE of Garland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-326)**.

Signed:

Senator:
JACKSON of Aroostook

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

Reports **READ**.

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

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

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, on this bill, as you can see by the report, I'm out there by myself. I feel kind of lonely, but as I listened to the sponsor and listened to the people that spoke on the bill, I just couldn't help but think that I really didn't want to vote Ought Not to Pass on it. I didn't really make a big issue about it in committee, but the more I thought about it, I'm glad I went the other way. The reason is that these, from what I understand, bigger companies normally get these contracts with Maine State Housing. Places like Sears, Lowes, and places like that supply the refrigerators, the washing machines, and different appliances

like that. They can give discounted prices, obviously. It's a statewide contract so to get the entire contract they might be able to cut a little bit off the top and sell a quantity. The reason why I am glad I voted against this is because all those smaller appliance stores that many of us have in our districts are not able to compete with these bigger appliance sellers. I can think of a lot in my area that would like to be able to do these contracts, but either they can't afford to give quite the same discount that Sears could or there is absolutely no way that they can do a contract that's going to be statewide. If they are just a small appliance store in my area maybe they can only do the St. John Valley. Maybe that's as much as they can handle. They certainly couldn't reach down into Bangor and Portland and things like that. All the talk we've heard here this session about changing our business attitude and doing what's right for small businesses is true. I think this is a perfect attempt to allow small businesses to get into these contracts and do it more on a regional basis. It doesn't mean so much that it's going to cost more money. I can maybe see that there is a chance that it would cost more, but the simple fact is that even if they can sell a refrigerator for \$500, the same as Sears or Lowes could sell it, they are not going to be able to do a statewide contract just because of their size. They are not going to be able to travel up and down this state, supplying refrigerators and things like that. I think this is certainly something that would help our small businesses in the state. They are Maine businesses where most of these others suppliers, while they might have an outlet in Maine, are not really considered a Maine business. It is something that's going to help the Main Streets of all our communities. We continue to talk about doing that for the small businesses in this Body. I think that this would be a perfect chance to do that. Let these small businesses have at least a chance to participate in the contracts. There might be competitive prices. I'm not really sure, but the simple fact is that just because of their size they can't bid on a statewide basis and the way it's going now they are not allowed to. I would hope that you would support Maine businesses, Maine's small businesses, and vote against the pending motion.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, I welcome the good Senator from Aroostook as a champion of small business. We need more of that. I guess the question is; when we are awarding contracts to replace appliances for low-income folks through the Maine Housing Authority do we want to service as many homes and as many households as we possibly can? Do we want to make sure that folks on the islands have equal treatment as folks on the mainland? That folks in the rural areas have equal treatment as folks in the urban areas? Do we want to let a number of small appliance dealers around the state cherry-pick an area and be able to supply that area and not supply other areas so that some people get service and some people don't, some people get appliances and some people don't? Do we want to add a tremendous administrative burden to the Maine Housing Authority that would come directly from the funds that would otherwise go into appliances, to appliance savings, in an attempt to be more generous, somehow, to our smaller Maine businesses? I think you have to remember that regardless, large or small, the businesses that are supplying these appliances, servicing these appliances, and installing these appliances are Maine employees.

They are Maine workers paying Maine taxes. They are folks that live in our neighborhoods and join us in all the things that we do in our communities. To suggest that somehow this is only for big business, it is for anyone who can meet the requirements that Maine Housing has put forward. In fact, they assured us that they are going to put this contract out to bid again and other bidders are welcome, but it's important that we make sure that we have equal, fair representation in the state. Urban, rural, or island communities, like I represent, make sure that they all are treated equally. I think that's the goal of this. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. What I'm trying to understand is why this would necessarily have any additional cost. It is simply saying to just break these contracts up on a regional basis. Presumably the large provider could still come in at a similar price and may well get all the contracts across the whole state if they truly had the lowest cost. The issue here is if we break it up regionally some of the smaller appliance places, who might be able to handle 25, 50, or 100 appliances but not a statewide contract, would be able to bid. I think that is the issue, allowing folks to regionally bid, hopefully come in at a lower cost, and get the contract. If they can't compete with the larger national chains, even on a regional basis, the national chain would get it. It's not hard for them to put in those contracts. I don't think this necessarily would add any additional cost. It's simply saying to let our smaller dealers who have a smaller number of appliances to try to get on a piece of this contract.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I just decided to rise because I just wanted to share one of the complaints that I get about State contracts in general. I hear very frequently about all kinds of things that we only allow the big ones to compete, whether it's a plumbing job or a contracting, whatever it is. Somehow we sort of force the little guys out of the competition. I don't know if that is real or perceived, but this seems like a way to at least address that in a small way. We can sort of at least allow them to have an opportunity, a chance of getting these contracts. I'm in opposition to the Ought Not to Pass report. I hope that you will vote against the pending motion and maybe some of our smaller, local, sort of regional appliance stores will have an opportunity. I know that there are quite a few in the area, in Penobscot County for example, and maybe they would have an opportunity to compete more readily on these State jobs. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, down in the Portland area we have a great appliance dealer called Nelson and Small. Nelson and Small doesn't really fit the little Mom and Pop appliance distributor, but it also, I don't believe, can't compete with some of our national competitors for this contract. It disappoints me because Nelson and Small does such an incredible job across a

big part of Southern Maine. I guess I would pose a question through the Chair?

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

Senator **ALFOND:** Thank you Mr. President. Who currently has the statewide contract for the Maine State Housing Authority?

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Alfond poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. I am not certain, but I believe that Sears has the current contract for the appliance contract for Maine Housing. I do want to respond to the comment about cost saving because it used to be that contracts were awarded on a regional basis. The reason they went to a statewide contract is because they discovered that they had significant savings. In fact, prior to Sears winning this contract, there was another vendor who was the statewide contractor and an in-state company. It is not impossible for an in-state company to win this. However, I also recall from the testimony that we had in committee that they had had some difficulties with service with that company. It's a question of being able to address both installation, sales price, and service that's important. As I said, it's a question of what our goal is here. If our goal is to provide subsidy through Maine Housing for a variety of appliance dealers by allowing them to bid on this and reduce the number of energy efficient appliances that we're putting in people's homes that's a policy decision that this Body is welcome to make. I would say that the 12 members of the committee who listened to the testimony determined that we were better off trying to get as many energy efficient appliances into homes as possible. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector 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 (#106)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SNOWE-MELLO, THIBODEAU, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SAVIELLO, SCHNEIDER, SHERMAN, SULLIVAN, THOMAS

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **RECTOR** of Knox to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

ENACTORS

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

Act

An Act To Amend the Laws Governing Security Deposits of Workers' Compensation Self-insurers
S.P. 404 L.D. 1301

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Amend the Laws Governing Significant Wildlife Habitat"
H.P. 765 L.D. 1031

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-281)**.

Signed:

Senators:
SAVIELLO of Franklin
GOODALL of Sagadahoc

Representatives:
HAMPER of Oxford
DUCHESNE of Hudson
HARLOW of Portland
INNES of Yarmouth
KNAPP of Gorham
LONG of Sherman
NASS of Acton
PARKER of Veazie
WELSH of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-282)**.

Signed:

Senator:

SHERMAN of Aroostook

Representative:

AYOTTE of Caswell

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)**.

Reports **READ**.

Senator **PLOWMAN** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)** Report, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Amend the Laws Governing the Ground Water Oil Clean-up Fund"

H.P. 501 L.D. 671

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-274)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-274) AS AMENDED BY HOUSE AMENDMENT "A" (H-314)** thereto.

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

Committee Amendment "A" (H-274) **READ**.

House Amendment "A" (H-314) to Committee Amendment "A" (H-274) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-274) as Amended by House Amendment "A" (H-314) thereto, **ADOPTED**, in 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

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding the Scope of Services That May Be Provided by Pharmacies Owned by Hospitals" S.P. 434 L.D. 1406

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-161)**.

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

FOSEL of Alna
MALABY of Hancock
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

Reports **READ**.

Senator **McCORMICK** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, this bill is outright assault on small business and I see that this is happening a lot tonight. What this bill does is create a monopoly for hospitals providing pharmacy services to long-term care facilities that are affiliated with the hospital. In my neck of the woods all of our nursing homes and long-term care facilities

are actually owned by hospitals and I would say that this is very prominent all over the state of Maine. Hospital pharmacies are not licensed and they would be without regulation in providing pharmacy services to an outside entity, which is the long-term care facility. It limits patient choice because if you go to the hospital or go to a long-term care facility or rehab facility you probably have your pharmacy of choice. I think that most long-term care facilities, including group homes and PNIs and other kinds of facilities that use a lot of medications, use and do business with our small, privately owned pharmacies. We really need to continue to support those businesses. We can't afford to lose any more of them. I hesitate to mention our very own Joe Bruno, who owns a local pharmacy and would also be at risk of having to be in competition with large hospitals. I would ask that you defeat this motion and vote the Minority Ought Not to Pass. Thank you.

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

Senator **FARNHAM:** Thank you Mr. President. Actually I received information that was a little bit different. This item was brought to my attention by the Maine hospital and long-term care community and they asked to have this bill put in to actually help us further understand the law in this area. Right now current law does not define the scope of services that these pharmacies may provide. That's exactly why we had to put this in, so that it becomes more clear on what these do. This bill defines the scope of services that may be provided by these hospital pharmacies. It allows them to dispense prescription drugs to their own patients and employees and nursing facilities that are directly affiliated with the hospital. The reason why we'd want to do this is to help with the cost savings. We all know that right now we're dealing with the high cost in healthcare. This is one area where we might be able to help with that. Hospitals are able to form bulk purchasing collaboratives to purchase prescription medication at substantial savings. If this bill is enacted hospitals could pass along these savings to the affiliated nursing facilities. This would reduce costs for our nursing facilities. The hospitals would not be able to sell directly to the nursing facility residents and the bill does not require anyone to purchase medications from a hospital pharmacy. The bill does not lower or reduce any existing oversight of the hospitals. This is just another way for us to look at healthcare costs and it's another opportunity for us to look at an issue related to these hospital pharmacies and understand their relationship to the nursing facilities that they already own and are obviously already affiliated with and most likely already do business with. It's just a way for us to clarify this relationship in law.

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, we're going to look to hospitals to help reduce costs? They are the costliest place we have. They are gobbling up everybody. I don't know how familiar you are with the way hospitals have been growing and are continuing to grow. We're down to only about three, other than the religious places, which is probably the only thing that is keeping total conglomeration. In Bangor, Portland, and Lewiston they are just taking over everybody. If you like that then of course this is a

good way. They are taking over practices of doctors. Doctors are now gravitated together and are now being pulled into the hospital orbit. I'm experiencing that myself with one particular practice. They are doing terribly now. They are terrible because they don't have their own ability to make decisions. Cost is what is going to kill us all. I've said this before, unless we get it under control worldwide, healthcare is going to decimate us. In Canada and France. Hospitals are not the place to look to be healthy. They are very dangerous places. To be cost effective. I think we're wrong to give them any ability to spread, to grab, and to gobble. I don't dare to ever go in a hospital again after this little diatribe. C'est la vie. I hope you will vote against this. This is not the way to go. We should be looking for other ways for small businesses, and even the gobbling up of big pharmacies, to survive. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I've received numerous calls and e-mails about this bill, specifically on how it impacts my district. Walt's Pharmacy had 65 employees in its location in Topsham and they are in great opposition to this bill. I am greatly concerned about just the erosion of what we're doing in this Body regarding small businesses as well as the impacts to the pharmaceutical pricing and competition, as well as more and more services being shifted to hospitals. In addition, this bill definitely does, I would say, expand whom a hospital can dispense to as stated in the amendment. Anyone receiving healthcare services from the hospital to a nursing facility that is affiliated with the hospital to active and retired hospital employees or hospital staff members and to dependents of the people listed in this paragraph. To me, this is an expansion. It is a great concern if you're worried about small businesses on your Main Streets located in all our districts. I would ask you to oppose this bill. Thank you, Mr. President.

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

Senator **HASTINGS:** Thank you Mr. President. I'm just a little startled by this amendment and all this discussion. This bill does not tell hospital pharmacies to go out and wipe out. It doesn't give them a carte blanche to wipe out the private pharmacy business. All it really says is if a hospital has a pharmacy it can dispense prescriptions to its patients in the hospital and also to its wholly owned nursing home and long-term care facilities. Would you expect anything else but that from a hospital pharmacy? I don't quite get why this is doing anything else. If anything it limits what they can do. Unless you feel that a hospital should not have a pharmacy in any shape or form, then how can you suggest that if they can have a pharmacy that they shouldn't be at least allowed to prescribe drugs to their own patients and to their own wholly owned nursing homes and long-term care facilities. It's bizarre to me. Unless we're just going to say we don't want hospitals to have pharmacies, it just makes no sense to me that they can't do what this bill says they can do. Thank you very much.

Senator **CRAVEN** of Androscoggin requested a Roll Call.

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

Senator **CRAVEN:** Thank you Mr. President. I would like to read the summary of the bill. I wish I had thought to use the word gobble because certainly hospitals have gobbled up our primary care physicians and they get paid a lot more money than our locally owned docs. This bill provides that a pharmacy that is owned by and located in a hospital may dispense prescription drugs to a person who is a patient in that hospital and to a person who is receiving healthcare services in a nursing facility or a long-term care facility that is affiliated with that hospital. It clarifies that the definition of pharmacy in the Maine Pharmacy Act does not include a hospital pharmacy and, as I understand it, pharmacies are not licensed nor do they have the supervision to dispense drugs outside their hospital. Thank you, Mr. President.

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

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I'll kind of put this into a question. I believe this is expanding the powers of hospitals. They have always, of course, been able to give their own patients. Some of these hospitals have hundreds and hundreds of employees. Now they can give to their employees? Is this new that they can give to their employees?

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Kennebec, Senator McCormick to Accept the Majority 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 (#107)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MCCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-161) **READ** and **ADOPTED.**

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

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, To Study Motor Fuel and Fuel Additives and To Explore Alternatives to Ethanol Motor Fuel H.P. 636 L.D. 839

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

Signed:

Senators:
SAVIELLO of Franklin
GOODALL of Sagadahoc
SHERMAN of Aroostook

Representatives:
HAMPER of Oxford
DUCHESNE of Hudson
HARLOW of Portland
INNES of Yarmouth
KNAPP of Gorham
NASS of Acton
PARKER of Veazie
WELSH of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-277).**

Signed:

Representatives:
AYOTTE of Caswell
LONG of Sherman

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-277).**

Reports **READ.**

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

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

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd ask you to vote against the pending motion and vote with the Ought to Pass report that my good Aroostook County colleagues voted for. I think probably without actually hearing why they voted that way I'd think you would understand that this problem with ethanol has been a real issue for people in the state. I know certainly in Aroostook County. A lot of times when the people put away either their four-wheeler for the Winter or their skidoo for the Summer, when they come back to it that ethanol has separated and they have real problems. I think the good Senator from Lincoln, Senator Trahan, could speak to the fact that I think the first year that we started using that the Inland Fisheries and Wildlife Department lost like six or seven skidoos that year because of that water separation problem. I know that last year, when Senator Marrache was here, she was very concerned about fuel in airplanes, which I can certainly understand why she would be a little concerned about that. This problem is really a serious problem for small engines. I've heard from a number of small engine repair shops that talk about all the people that have brought in weedwackers and things like that. They've been setting and when they come back it's ruined the engine or they've started it up and it's ruined the engine. There just has got to be a better way to do things. I would say that having a study on this, I'd like to just ban it outright but not having that alternative I would say that to study and see what we can do to make fuel here in Maine better would be a good alternative to just outright banning it and going back to the way it used to be. I don't know. I'm sure that some of you have had these problems because it can't be just Aroostook County with this ethanol problem. I just can't say enough about how bad it's been and the cost that it has been for people to put additives in there to take care of the water separation. This is supposed to save money and it's actually increased the cost to people because you have to buy all this high priced additives to put into it. I don't see where the savings ever were. It certainly probably helped some people in the Mid-West with their corn and things like that. I don't think it helped anyone in Maine. I'd ask you to vote against it.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll go just a little bit further and call this the greatest boondoggle in the last ten years. I'm going to agree with the previous speaker that I think we ought to find a way to ban ethanol in our fuel. It's personally cost me well over \$1,000 in carburetor overhauls and work on my outboard, which is almost brand new. I think that we would be wise to take and do a study and find out how we can ban ethanol. In the future, if they are going to come up with an alternative fuel that's going to benefit farmers in the Mid-west that's great, but not at the price of our food and our sanity in keeping up with all the repairs associated with this boondoggle. Thank you, ladies and gentlemen.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I wanted to share that two years ago there was a bill came before the Business, Research and Economic Development Committee. We held onto that bill for a long time because Senator Marrache was working very hard to try to get to some kind of compromise. In the end she asked to just have the bill killed. It was on there all session. All session long I heard from people all over the state, calls and people coming to me in the hallways saying, "We've got to do something about this. It's destroying my small engine. I'm having a real problem with this. What are you doing to fix it?" Here we are again and I'm going to agree with the previous two speakers. I cannot support the Ought Not to Pass report because it's one of those things, like other issues, that go unanswered under the Dome. People are asking us for help. I really feel that like they've reached out and we need to do something to help them in this capacity. I'm hoping that you will vote against the pending motion and try to come to some agreement so we can help people whose businesses are being hurt and having repairs that are constant because of this intrusion of ethanol into their equipment. I hope you will join me and vote against the pending motion. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. So I'm the evil one who said no. I'm going to explain why I said no. First of all, we can do all the studies we'd like to do but it's not our problem. It's the federal government's problem. Perhaps we, as a Body, want to write a letter to our Congressional Delegation and say to get rid of ethanol because we can do all the studies and find all the additives that might be good substitutes and at the end of the day it means nothing. The second thing is that this year the good Representative Duchesne and I spent about eight hours with the Department of Environmental Protection. It was the first time in 30 years that some of them could remember a Legislator coming over and asking them what they thought and what we could do to help. One of the things they made very clear to me was to stop the studies. They spend time working on studies, many times because we don't want to make a decision so we say, "Let's study it." They do. Instead of writing permits, issuing licenses, and taking care of notices of violations, they are working on a study. One of the things our committee came together and agreed upon is that we weren't going issue any studies and if there were studies to be issued we need to take two away. We did not get two to take away.

To summarize, this is not our problem. This is the federal government's problem. We need to stop sending studies that, at the end of the day, the results mean nothing because we can't do anything with the study. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise and I agree with my good Chairman of the Environment and Natural Resources Committee. I would just point out that this also has a \$5,000 fiscal note attached.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't know which I dislike more; studies or the price of gasoline. I would gladly pay more for gasoline if it didn't have ethanol in it. This may well be a federal problem, but I know for a fact that there are states and places where you can buy gas without ethanol. Somehow the message has to be sent that we want the choice. I'll pay extra because I'll get better mileage. They put 10% ethanol in it and my mileage goes down 10%. Might as well take the money out into the parking lot and burn it. I'd like to send a message, so I say to the Chairs of Natural Resources to find two studies to do away with, please.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, just three quick points. This is a fantastic study done by a couple of Legislators. Unbelievable. To the point of the amount of gas, the gas mileage in many cars is three or four miles less per gallon. Talking about the carbon dioxide and more carbon dioxide in the air, when you check your mileage, between the two, you'll find the difference. There are other states doing this. Maybe not a study, but to try to get together with those other states. Find those states and send this off to the federal government. It is a federal issue. We know that. The third piece is very simple. I've been told, very simply, to take care of this ethanol issue, stop having the Presidential Primaries in Iowa and those subsidies will go away.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Mr. President. I have to stand up also on this because I've been following this issue for a long time. I remember when the State put ethanol in our gasoline. I don't believe that at that time it was a mandate. I think the State needs to send a strong message to the federal government. Not only is this increasing the cost of our gas, it's also increasing the cost of our food. I don't believe that we should be using a food source to fuel our cars. The sponsor of this bill, from the other Body, really did her research and her homework, and it's a shame that we're not following up on this. I'd like to say, how can we, as a Body, send a strong message to the federal government that we need ethanol out of our gas? I would love to pose a question through the Chair.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. To the Chair of the Natural Resources Committee, what is the solution to sending out a strong message to the federal government from this Body and, hopefully, the other Body on this issue? Thank you.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Snowe-Mello poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Mr. President. I'd love to answer that question. There are two options that we have available to us. A Resolution to the federal government saying that we do not support ethanol in our fuel and we do not support a potential increase of ethanol in our fuel, which I will speak to in a second. The second thing we can do, we have a Congressional Delegation. We could send a letter to them saying enough is enough, no more ethanol. Mr. President, just one more point. Earlier today, in discussions with some of the lobbyists, it was brought to my attention that we will now, potentially in the very near future, see an increase in ethanol in our fuel from 10% to 15%. I'm wondering if somebody in this Chamber could answer the question; is that true?

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm so glad that the good Senator is stepping back to his seat. I just want to say that I'm not crazy about studies or anything like that either, but maybe it is just something that the Body could figure out. Do we have to have ethanol in all gas? Do we satisfy the requirement by maybe having the 93 octane but the 87 doesn't have it? There has got to be a way to be able to get some gas in Maine without ethanol in it.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. Yes, you can do that. Buy it in Canada. The answer to the second question is yes, there is an increase in ethanol. Again, decided at the federal level. Not decided by us. That's where it happened. That's where the oil companies had an opportunity to decide upon. If you've got an issue, that's who you've got to talk to. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, this is one time that I can actually say that I'm thrilled that I'm going to get up and speak. It's hard to believe, I know it. Hearing the debate on this issue, I can say that this has been a huge issue with a lot of my constituents as well. One of the things I brought up earlier in the session is a book I read called Taking the Rich Off Welfare. The wonderful thing about the ethanol problem that we have in the United States of America is the tax subsidies on the federal level. We're paying for them to poison our fuel. That's what I think it is, because it's robbing us from our gas mileage and stuff. I think it's really doing a disservice to the citizens of the United States of America and the citizens of the state of Maine. On behalf of the tons and tons of people that I know have flocked to all of the automotive stores, the Wal-Marts, and the like, getting all the gas additives and the like, and all the small engine dealers that have fixed or replaced the many rotor tillers, lawnmowers, and the like, I am in favor of the Majority Ought to Pass report even though it is a federal issue. Thank you, Mr. President.

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

Senator **SAVIELLO:** Thank you Mr. President. I'm trying to remember what I wanted to say. I've been gassed out at this end. I need some ethanol in my tank. I'll pass.

One of the things that my good friend, the Senator from Sagadahoc, Senator Goodall, brought up is that there is a \$5,000 fiscal note on this. Later you are going to be dealing with a shoreline bill that makes a big difference in how we manage our shorelines, which will help a lot of businesses and a lot of individuals. There is a \$2,000 fiscal note on that. I ask you to put your priorities, where do you want your money spent? You will decide with this vote today. Thank you very much.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, perhaps there is a stakeholder group that might be willing to do this without charging. I know that's been suggested on a number of other bills, where I think that there are people who are pretty passionate about doing this work. Maybe the committee could engage those people who are passionate about dealing with this in that process.

I would like to pose a question through the Chair as to whether or not that was a suggestion in order to get rid of the fiscal note, to engage people who have had direct experience with this and how they would like to proceed forward, sending the message that we all would like to send and to also move this issue forward since I believe it continues to be a problem. Maybe we shouldn't just throw up our hands and say, "We're not going to do it because it's a federal issue." I think it is incumbent upon us. It's our responsibility to at least send the message, whether it's a letter, putting a stakeholder group together, or something. It's our responsibility to answer the call to action. I would encourage that and I would like that question answered, please, Mr. President. Thank you.

THE PRESIDENT PRO TEM: 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 Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. I would strongly agree with you, related to writing a letter. I would suggest that perhaps, as a Body, we do that after we accept the Majority Ought Not to Pass report, and that we do write a letter asking the federal government to help us with this issue, because we've had people, very few, come in and testify on this bill. Thank you very much.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to pose a question through the Chair.

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

Senator **JACKSON:** Thank you Mr. President. It was said that I could go to Canada, but I've said in other debates here that I'm not real likely to do that a lot. My recollection of the last couple of years of this is that there was nothing that said you couldn't sell gas without ethanol but you had to have gas that did have ethanol. Would it be possible for a filling station to have gas that has no ethanol in it and maybe on the side have a five gallon jug that has ethanol in it? Do they just need to have one pump with ethanol or does everything they sell have to have ethanol in it? If I could have that answered that would be awesome.

THE PRESIDENT PRO TEM: The Senator from Aroostook, Senator Jackson poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. I believe the company has to decide how they are going to blend their gas and that makes it very difficult for them to un-blend the gas to what you would like to have.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Plowman 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 (#108)

YEAS: Senators: BARTLETT, COLLINS, COURTNEY, DILL, FARNHAM, GOODALL, HASTINGS, KATZ, LANGLEY, MARTIN, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BRANNIGAN, CRAVEN, DIAMOND, GERZOFKY, HILL, HOBBS, JACKSON, MCCORMICK, PATRICK, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN

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

Sent down for concurrence.

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:

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Establish an Elder Victims Restitution Fund"

H.P. 594 L.D. 787

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-343)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-343)**.

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

READ ONCE.

Committee Amendment "A" (H-343) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

COMMUNICATIONS

The Following Communication: H.C. 184

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

May 25, 2011

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
125th Maine Legislature
Augusta, Maine 04333

Dear Secretary Carleton:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Regarding the Attendance of Attorneys at Pupil Evaluation Team Meetings" (H.P. 822) (L.D. 1110).

Representative STRANG BURGESS of Cumberland
Representative RANKIN of Hiram
Representative JOHNSON of Greenville

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

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

COMMUNICATIONS

The Following Communication: S.C. 405

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

May 25, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

- L.D. 17 An Act To Reform the Land Use and Planning Authority within the Unorganized Territories of the State
- L.D. 1258 An Act To Improve Land Use Planning and Permitting in Unorganized Territories

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

Sincerely,

S/Sen. Roger L. Sherman
Senate Chair

S/Rep. Peter E. Edgecomb
House Chair

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

The Following Communication: S.C. 406

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

May 25, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

- L.D. 1363 An Act Regarding the Publication of Information Related to Persons Convicted of Operating under the Influence of Alcohol or Drugs
- L.D. 1556 An Act To Amend the Laws Governing the Replacement of Firearms Carried by Maine State Police
- L.D. 1565 An Act To Give Judges Greater Flexibility When Sentencing Defendants Convicted of Murder

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

Sincerely,

S/Sen. Garrett P. Mason
Senate Chair

S/Rep. Gary E. Plummer
House Chair

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

The Following Communication: S.C. 407

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON TAXATION**

May 25, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

- L.D. 459 An Act To Improve Municipal Reimbursement under the Maine Tree Growth Tax Law

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

Sincerely,

S/Sen. A. David Trahan
Senate Chair

S/Rep. L. Gary Knight
House Chair

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

Senate at Ease.

Senate called to order by President Pro Tem
GARRETT P. MASON of Androscoggin County.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Allow a Tax Credit for Tuition Paid to Private Schools" S.P. 325 L.D. 1092

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-60)** (8 members)

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

Tabled - May 25, 2011, by Senator **PLOWMAN** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 3, 2011, Reports **READ**.)

Senator **TRAHAN** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

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

Senator **SHERMAN**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'm associated with this bill. It's not exactly in the form we'd like it, but I'd like to read what this applies to. This applies to private schools, private academies, seminaries, and institutes or other private corporation or body formed for educational purposes covering prekindergarten to grade 12, or any portion thereof. These have to be recognized by the Commissioner of Education as a private school for the period during which the credit allowed under this section. We're not supposed to talk about lobbying, but it might be an additional factor here if this was passed and then something done with it from there.

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

Senator **ALFOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'm going to try to be as brief as possible, but let me state first that every student in Maine is important and, as an expecting father, if my son or daughter isn't doing well in school having the option to send my child to private school is something within my right. I think it's terrific that we have so many private schools and town academies in the state of Maine. From my perspective, private schools, religious schools, and town academies all do a very good job with our students here in Maine but none of them truly are under the jurisdiction of the Department of Education. I can't really tell you how they do as far as their quality or the results. If I choose to send my future son or daughter to a private school, a religious school, or a town academy that is my choice and I don't believe that Maine taxpayers' money should follow my child. I really disagree with this bill a lot. It started out as a much more ambitious tax credit. It was \$2,500. I know now it's \$1,000.

Let me just quickly give you a perspective of what's happening in our K-12 schools. We've done a pretty decent job of trying to consolidate a lot of the schools around the state. We're down to 179, but even at 179 districts across the state we are \$400 million short of reaching the 55%. We are underfunding our K-12 schools by \$400 million. This would further result in more dollars not going to K-12 schools here in Maine. When that happens, as you all know, no rates go up and that means local taxpayers and the State have to pay more. I'm not really sure that's really the priority of many of our districts, to pay more taxes to send a very few amount of students to private schools, religious school, and so forth.

The next thing that I just want to chat about is that during testimony in Education around the concept of funding private schools and religious schools there wasn't one private school that actually came to speak on why they want a tax credit or why they want local government and local municipalities to have the funds to use in their general fund to pay for dollars spent. It was simply religious schools that came and spoke to the Education Committee. They actually were very blunt on why they were coming to speak to us. They said, simply put, "We are losing students, we need money. We need more revenue coming into our schools." I'm sympathetic to that, but, again, I am not sympathetic to taking money out of our K-12 schools.

The next piece is just, if you all look at the bill itself, there is a very challenging part called a non-resident taxpayer part. If you read it, and if someone understands what's going on there, I would love to understand how a non-resident taxpayer qualifies and what happens with their income. This is very confusing and,

again, just creates, I think, more of a problem for our K-12 schools.

Finally, I would just say that religious schools and private schools, we have no idea about their quality. We have no idea because the Department of Education is not under their jurisdiction. I would hope that you would follow my light and defeat the motion. Thank you, Mr. President.

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

Senator **SHERMAN**: Thank you Mr. President. Ladies and gentlemen of the Senate, may I pose a question through the Chair?

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

Senator **SHERMAN**: Thank you Mr. President. As I read this, private schools, academies, seminaries, and institutes or other private corporation or body formed for educational purposes that are recognized by the Commissioner of Education. My question would be; if those are recognized by the Commissioner of Education what does the recognition bring? Does it say how do you do, you're here, great, you're on the line, or does it talk about some standards? Some of the institutions are in the Portland area that this would affect.

THE PRESIDENT PRO TEM: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Alford.

Senator **ALFOND**: Thank you Mr. President. The Department of Education has no jurisdiction over a school like Cheverus. To the good Senator from York, Cheverus is a great school, but the Department of Education does not look at anything that goes on at Cheverus, at all, as far as any sort of academic quality. I'm sure they do great and that's terrific, but, again, it's a real troubling piece here that we are going to be giving a tax credit. It's not insignificant. We're talking about, I believe, about \$3.5 million over the biennium. That's a pretty good chunk of change that we will be sending off to private schools. I would just say that if the idea is to get students into private schools and if that private school costs \$10,000 or \$12,000 a \$1,000 tax credit, at this point, is a pretty small number. What you would really be doing, with those low income families, that \$1,000 I don't think is really going to make a difference. If you actually had a \$5,000 or \$6,000 credit you might actually get a lot of low income families potentially attending a parochial school or a private school. Now you are basically giving potential tax credits to those parents and those students that might not need them. Thank you, Mr. President.

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

Senator **SHERMAN**: Thank you Mr. President. I would ask the good Senator from Cumberland if we raised this to \$5,000 would he be in support of it?

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

Senator **ALFOND:** Thank you Mr. President. Absolutely not.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I think there are things that perhaps we all agree about. One is that we need more competition in education and more diversity in education and that a variety of private schools, including religious schools, contribute to that mix. I also think we must be really vigilant in protecting the line between church and state. I don't care if it's a Catholic school or a Jewish school or a Hindu school, we need to avoid funding religion. I think that is the unfortunate consequence of this bill. I will be voting no. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I, for one, would appreciate a \$1,000 tax credit. It would make a difference to people who actually live in the middle. There are people who still live in the middle. A recent Supreme Court decision in the Arizona Christian school district, while not deciding the whole issue, did find that there is a difference between sending tax money to a school and offering a tax credit to a taxpayer who chooses to find a different private education for their child. The separation in where the money comes from and how the money is spent by the individual on their own grounds and how they choose to spend their money, just as we do with any college, attending a private college in the United States, the feds do not differentiate when you look for the tax credit for where you send your child to college. They don't say, "If you send your child to a private college, such as Bates or Bowdoin, that you cannot have the tax credit for your education where you sent your child for college." It would seem to go further along that if you choose to send your child to a private high school that we may not be able to send our tax dollars to that school but a parent should be able to take a tax deduction or come upon a tax credit for making the same decision that they make when the child is a Freshman in college. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. With respect to that Arizona case, it is helpful to look at the decision on that case. That case did not decide that the tax credits were legal. It simply said that the plaintiffs lacked standing to bring the case. There was no decision on the merits in that case. The decision was on whether the folks petitioning had grounds to make the argument. The court said, "Sorry, you don't have standing to make that argument." The court has not addressed the constitutionality of this issue.

Beyond that issue, it is important to understand what public schools are about. The idea is that we are using public money,

taxpayer money, to fund a school system that has oversight to make sure that every child in the state has an opportunity to have some basic level of education. What you are doing now is to say that same taxpayers have to fund private schools as well. It just cuts at the core of what the public school system is about. You can abolish all public schools, I suppose, and give everybody money and go to a purely private system. The reason we don't do that is because it would be much more difficult to hold the school districts accountable and to make sure that they are achieving the outcomes intended. As long as we are going to continue to fund a public school system, believing that folks from Aroostook County to York County deserve the same quality of education, we cannot be diverting our scarce resources to be funding private schools as well. Thank you, Mr. President.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to set the record straight on what the Supreme Court has done. I'll read from an article written by Adam Liptak that was published on April 4, 2011. "Supreme Court allows tax credit for religious tuition. Washington - The Supreme Court on Monday let stand an Arizona program that aids religious schools, saying in a 5-to-4 decision that the plaintiffs had no standing to challenge it." I just wanted the record to show that this has been settled by the Supreme Court, around credits. Thank you.

THE PRESIDENT PRO TEM: The Senator from Cumberland, Senator Alfond, requests unanimous consent of the Senate to address the Senate a forth time on this matter. Hearing no objection, the Senator may proceed.

Senator **ALFOND:** Thank you Mr. President. Very quickly, when the day comes when our public schools gets these headlines then maybe I would be interested in having the discussion about what we are having around creating a tax credit for religious schools and private schools. Just recently Waynflete, which also is in Portland, got a \$2 million charitable gift. I don't remember that happening to Portland High School, Casco Bay High School, or Deering High School. Just recently in Fryeburg, Fryeburg Academy, I believe, just got a \$15 million charitable gift. If that's incorrect then please let me know. The bottom line is that these private schools are getting wonderful donations. Those donations help for scholarships and those donations help students go there. Our public schools only have one revenue source, our tax dollars. Thank you, Mr. President.

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

Senator **HASTINGS:** Thank you Mr. President. The Senator from Cumberland is absolutely correct. A gentleman who had graduated from Fryeburg Academy in the 1940's did amass quite a fortune and did leave the Academy \$15 million. You know what the Academy has had to do with that? We act as the public high school for Fryeburg. As you may recall, we had a gymnasium burn down, torched by an arsonist a few years ago. Fryeburg Academy, in the last five years, has built \$16 million worth of buildings without one penny of public money support. That's where this money has gone to and that is the trade-off. In order

to do this, to provide these facilities without any State funding, we've gone to the generosity of our alumni who loved the school. That's the story on that \$16 million. Thank you very much, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, just real quickly. The difference between this bill and what we do for colleges has to do with the Constitution and the right to a free and public education K-12. That is what is covered. I am of a firm commitment that when we continue, as has been said before, and we begin to fund all children, all children, even from those homes where parents do not find education a priority because they are too busy, the Constitution clearly says free and public education K-12.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Trahan to Accept the Majority 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 (#109)

YEAS: Senators: COLLINS, COURTNEY, HASTINGS, MCCORMICK, PLOWMAN, RAYE, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, PATRICK, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/23/11) Assigned matter:

HOUSE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Revise Notification Requirements for Pesticide Application"
H.P. 181 L.D. 228

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-244)** (9 members)

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

Tabled - May 23, 2011, by Senator **SHERMAN** of Aroostook

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

(In House, May 19, 2011, 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-244).**)

(In Senate, May 23, 2011, Reports **READ.**)

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

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I just want to ask a question of the Chair about the appropriate time, I would like to offer my amendment. Thank you.

THE PRESIDENT PRO TEM: The Chair would advise the Senator that the correct time to present the amendment would be after acceptance of the Ought to Pass report. The pending question before the Senate is the motion by the Senator from Aroostook, Senator Sherman to Accept the Majority 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 (#110)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **SHERMAN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-244) **READ.**

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "B" (S-160) to Committee Amendment "A" (H-244) **READ.**

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first it is lovely to be spending this glorious evening with all of you on this beautiful day and I'm sorry that we're having to prolong this. I didn't anticipate that we were going to move forward on this, but in light of that, we are here and we get to talk about pesticides. Why is this amendment so important and why is the registry that we currently have so important to people? That's really what this debate is about. This amendment saves the registry that we have right now, which nearly 2,000 people are on. The registry that we now have is an easy system for people to sign up on so that they can be notified about pesticides being sprayed near to their residents. It's not cumbersome. It's about citizens who are concerned. As you know, many of them have issues. We have huge rates of childhood asthma in this state. We have issues; things like autism, which is exploding here in this state. I think 1 in 110 now have developmental disabilities now in our state. There are cancer rates that are very high in this state. It has been linked to exposure to things like pesticides. That's why there is such a concern about pesticides in our state. Some of the history that we have here, I have passed out a three page handout which tells you some of the reasons why people are so opposed to eliminating this particular registry. It's important to note that decades of work have gone into this and a great deal of compromise. Unanimous reports have been received out of committees in the past on this issue. It's with great disappointment that I find myself here having to debate this issue because it was my hope that we could come to some really reasonable compromise to save the registry and also, frankly, to work out issues that business people had because that is the way I'd rather see this worked on. I prefer to work on things in a collaborative way and I think that's apparent by my previous work on a lot of different issues. I would have liked to have continued this work because we are not going to see a chance during this growing season. The registry, even with the passage of L.D. 228 as it is, even without this amendment, this growing season, they will still have to do the same notification as they do now; the growers and the people in agriculture and so on. We would have had time to deal with this and really, I think, achieve a unanimous compromise. Unfortunately, that's not the place where we found ourselves. My amendment probably, and I hope that it's not just an amendment for the sake of talk, I'm hoping that some of you will come along with me on this amendment and that we can continue to keep the registry that we have now for the people, the 1,800 to 2,000 people, who are currently on that registry so they feel comfortable with the notification process.

Why should we have an easy way to notify people? Why should we make it the least cumbersome way possible? If you have to go back to the old system, the old system put the burden on the individual to seek out the growers or the people who were putting the applications down. What that meant was that they would have to go, for example, to their neighbors, perhaps the

tree farmer, or what have you, and ask them to notify them. That's the old way. It also was at a cost. There is an old registry that this would fall back on that would cost people \$20. Right away when I think of having to go to a neighbor I don't think that this is always a great way to start off with neighbors. It eliminates that concern of "Oh, I'm rocking the boat" with neighbors, for one thing. In addition, it makes it a very easy process, to be able to go online and click and say, "I want to be notified when pesticides are being applied nearby." It seems so reasonable. There is also going to be a GIS system, which is in my bill, to give additional time to work that out because soon it will be all the easier for people because of the technology that we will have to notify people. It will make it much easier on those applicators.

I want to talk just a little bit about this amendment and about a report that was given to us by the Board of Pesticides Control, which was dated January 11th. Their recommendations were actually to notify people, and I quote, "Experience has demonstrated that pesticide notification is an effective, low cost, tool for alleviating conflict because it removes the element of surprise and allows nearby residents to take simple, commonsense steps to reduce the risk of pesticide exposure." People are concerned about their children and their pets. They are concerned about their working animals. They are concerned about those being exposed and they just want a simple, easy mechanism to be notified. That's what we have currently that we are about to undo. If L.D. 228 passes un-amended Maine's free and simple effective aerial and air carrier pesticide spray notification registry will be repealed. After this growing season businesses that spray pesticides using aerial and air carrier technologies will not need to consult the registry for those 1,800 or 2,000 people. My amendment will protect the interests of those registrants. It will protect the integrity of the registry. It will reduce the notification distances for pesticide applicators. It will give the Board of Pesticide Control that additional time to work out the bugs in the GIS system. The specific criteria for notification will be as follows: non-agricultural pesticide applications within 250 feet of a property listed on the registry. The non-agricultural pesticide application using air carrier application equipment will be 500 feet of a property listed on the registry. The non-agricultural pesticide application using air craft application equipment is within 1,000 feet of a property listed. Agricultural applications are within 500 feet of a property listed on the registry. Agricultural aircraft pesticide applications is within 1,000 feet of a property, and, by the way, that reduces it from the 1,320 feet.

I know there is a lot of concern over this. We had another vehicle. I was very disappointed that it was almost immediately turned down. If you look through the three page handout that I gave you, if you look on the references there are many indications that pesticides do have impacts on our health. That's why this keeps coming back over and over to us. We can turn our backs on this and deny that fact, but I can assure you that what will happen is that they will be back again. I'm sure that if we pass L.D. 228 as it is, without the amendment, I can promise you that these will be back again to deal with this. This is not an issue that will end. It was my style to try to come to some mutual understanding that we could all live with and I'm hoping that this will be a mechanism to at least bring us to a more moderate position on this issue. It's not perfect by people in the environment community. I understand that, but it's a step that holds onto the registry that was worked on for so many years. With that, I hope you will vote with me on this amendment.

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

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. I can remember what I have to say because I wrote it down. First of all, let me give you a little bit of my background. Some of you don't know this but in my previous life, when I had the peace and tranquility of the woods and did not know what I was leaving when I left there, I managed a 10,000 per year herbicide program. In fact at one time I had four helicopters working on my land, on IP's lands, and flew all over the state coordinating that. For two years I was the manager of a 100,000 acre spruce bud worm project, taking care of the environmental issue related to that. I was a member of the Pesticide Control Board. In fact, I wrote the first notification laws for 15 years. I was appointed by an Independent, a Democrat, and a Republican Governor. I chaired that committee for 8 years, so I realize the importance of the use of pesticides and that they are properly used. I realize the importance of neighbor notification. On my own projects I bent over backwards to complete those efforts in a timely manner. The spraying that I did was one time, once a year, and often times, when you got into the great North Woods at St. Aurelie and places like that, you didn't have many neighbors, but I made that effort. Agriculture is different. It is different because when I first got on the board the effort used to be, "Well, it's Monday, I spray fungicides. Tuesday, I spray herbicides. Wednesday, I spray insecticides." They are all pesticides. Pesticides control pests. We changed that. We said that they needed to use something called integrated pest management. They had to spray when the insects and the diseases are about to over-take the crop. Not just everyday because, you know what, spraying is extremely expensive. If you drive in my town, up a street which I live on called Orchard Drive, there are orchards there that are no longer being farmed because it became too expensive to do that. In fact I chuckle often. I'm the only orchard that's left on Orchard Drive because I actually cultivate and manage about 22 Macintosh trees.

L.D. 228 addresses what we need to do, the amendment does not. Let me point out to all of you that you all use pesticides. Do you have a swimming pool? Do you put chlorine in it? That's a pesticide. Do you spray Deet to protect yourself from bugs biting outside? That's a pesticide. You would be surprised how many pesticides are sprayed in the grocery stores when you go there. Do you know why you don't see any bugs on the floor? Pesticides. Most likely this room has probably been sprayed at some time to control pests, not to control us.

I do have some information from a constituent that talked about the proposal that is in front of us. I just wanted to read that to you. In short, she says to me, and this is what I consider a green landscaper, "L.D. 228, as written, without the amendment, brings back commonsense and common courtesy. It encourages us to establish a relationship with our neighbors, something that has been missing from our culture for too long." I also have some information from the Pesticide Control Board, from Henry Jennings, who is a fine young man who we hired when I was on the Pesticide Control Board and who has worked diligently to try to solve this. His quote to me was, "A one size fits all registry is very cumbersome and can create burdens. The old system that

we presently have is better tailored to fit the unique circumstances for urban, rural, and wide area spraying. No other state has a comprehensive registry like the one that we have proposed." I also want to emphasize that in the letter that Henry sent to the Commissioner he pointed out that they will continue to work on the GIS system but it needs a lot of work to have it take place so that an applicator can go online and actually see where these sites are and determine whether he has a neighbor or someone else that he needs to notify. Also that person needs to have some responsibility. Presently it's \$20 to be on the urban registry which exists. There are 24 people on that. There are 2,000 on the other one because it's free and perhaps many of them are not signing up on there or have their own reasons for signing up.

In short, I appreciate the good Senator's suggestions with her amendment. I believe and I'm very confident that we will have some kind of registry in the future using a GIS system but there is no need for this amendment. Thank you very much, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, decades of work have gone into this and it seems interesting that the report findings have been pretty clear about it. I want to read you on a page here about recommended notification distances for a comprehensive registry. It specifies non-powered commercial applications; granular applications, including aerial; powered backpacks; and so on at 250 feet. It goes on to boom sprayers at 500 feet and list a whole litany of them and 1,320 feet for aerial spraying. This is from the Board of Pesticide Control, report of findings and recommendations on January of this year. I just find it interesting that now the Director is backtracking on this. I don't think it's any mystery, given the current tone under the dome and what was in L.D. 1 regarding his position. I just think what needs to happen is that we need to listen to whole board. This registry has been effective. It's unfortunate. I don't think this is just a small band of people that want to be notified.

As we learn more and more about the impact of various chemicals on our bodies that we find that there will be much more of a call out from every person, regardless of political affiliation, because of illnesses and disabilities and things that are being built up in our system that may have to do with these chemicals. If we are being exposed to them here because of bombs that have gone off in this building to clear pests, then I would like to know about it, personally. I would suggest that this is not a great thing, that we are exposing ourselves to these things. People are finding, when they are being tested, these chemicals in their bodies. We have to recognize that as we wonder why we are getting so many cases of cancer. What's going on? Why all the cases of autism? Why are so many of kids asthmatic? Yet we turn a blind eye to these things and we make it difficult for people to get notified.

Is this perfect? Is this registry the panacea? No, but at least it gives people a comfort in knowing that they have access. By the way, I don't think it's exactly neighborly. I know when a neighbor of mine does something and I go over and ask questions it puts me in a really funny, awkward position if they are doing something. They think I'm asking about it because I'd really rather them not be doing it. That's not like a big neighborly thing.

I'm sorry for that person that thinks that this is a great way to start off a neighbor relationship is by going and asking them about being notified about their pesticide application because they really don't want to be exposed to it. This isn't about the stuff that's put down on your lawn as Greenthumb drives along and puts this stuff down, the little granular things. I've had people complain about that to me, because I use that. Should I notify my neighbor if they want to know? Absolutely. I think it's our responsibility. If we're going to use things that other people are worried about that we should notify them. I think we should make it as easy as possible to notify them.

By the way, I was willing to work on this throughout this next year, but there was a rush on this because the idea was to just get rid of it. I don't think that's what the people of Maine want. I think we'll find out that it's not what the people of Maine want. I know that there are people in this Chamber that have been willing to compromise and I want to let them know that I appreciate that, but it was not during that committee deliberation that we had that opportunity. That's too bad. Instead we have to do it on debate on the floor. It's not the way I like to work. I like to work in the committee process. Believe me, I'd much rather do this discussion in the committee process, in an open and thorough way, and in a collaborative way, because I think we could have come to a better results. Here I am, arguing for something that, unfortunately, I don't have the greatest wealth of expertise on, but I have enough expertise to know that there are mothers and fathers and aunts and uncles and people who care about, in particular, their kids and they don't want them exposed to chemicals. They know, in particular, young people are very susceptible to things, the expose to these kinds of chemicals, and we should be doing what we can do to make it as easy as possible, and also recognizing that we don't want to burden businesses, for them to get that notification. That's what this is about. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. Just a couple of things. One, in relation to neighbors. We sit here and often talk about farms. How beautiful they are. Apple orchards. When I was on the Pesticide Control Board, I'll share a little story with you, apple orchard and neighbor bought a piece of property there. Came in front of the board because they were spraying chemicals on the apple orchard. I asked the question; "How come you live by the apple orchard?" "It's beautiful. I like the blossoms. I love the apples in the Fall." I asked him how long had the apple orchard been there. A hundred years. How long had he been there? Three years. "Did you not know that they sprayed those apples?" The answer was silence on the other end.

Let me just answer a few points that were made. Presently, and I'm glad you pointed out that backpack sprayers are 250 feet, the notification requirements right now are 500 feet. Aerial spraying, that is the one thing that was chanced in the present L.D. 228, to 1,000 feet is it was aerial spray. Thank you very much.

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

Senator **SCHNEIDER:** Thank you Mr. President. Just briefly, I want to say a couple of things. There are people who have bee hives. When we talk about sensitive areas, people who have bees, we wonder where all the bees have gone. Ask yourself about that. There is a concern about that. About spraying bees. Perhaps maybe those people thought that this was an organic farm. I don't know. I'm just pointing out that also when these chemicals go, when they go through the air, they end up on people's land where they are trying to produce organic fruits and vegetables. I just want to point that out. Those are some of the concerns we've heard in the past. I don't think we'll stop hearing them. Mark my words. People will be back and you'll be hearing this in two years. I won't be here with you, but you'll be all here listening to a similar argument because this is not going to go away. This is going to grow. Remember that I was trying to help you all avoid that. Thank you very much, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today just to agree with the good Senator from Penobscot. As the good Senator from Franklin, Senator Saviello, pointed out, he, too, had a prior history. Before my electrical career I was in the landscaping business and went to school for that. Agronomy. People want to know, they want to know what is being applied to land. They want to have the ability to learn about the products, especially products that have a drift potential and they can see it occurring. We've probably taken a double take at those small signs that are posted, as the Senator from Penobscot, Senator Schneider, said, on residential lawns. People read them. People have misconceptions. They often go back home and they look it up on the internet and then they feel better about it. They have questions. Can I let my dog out on that? I know that's not the topic of this bill, but what this does is provide a tool that has just to be fully instituted, frankly, and we need to give it a chance to work. The amendment is heading it in the right direction. Until we have a system that is accepted by industry, obviously the Legislature, and the public we're going to be constantly battling this topic. It needs to be resolved because the Senator from Franklin is right. Pesticides are all around us, but people need to have the right to know and they shouldn't have to pay to find out. Thank you, Mr. President.

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

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, just a couple of things that I think we need to clarify here. L.D. 228 in no way relieves anybody's obligation to make sure that their pesticides do not drift onto other people's property. I know that the good Senator from Penobscot, Senator Schneider, certainly wasn't trying to indicate that it did. I know she wouldn't do that. I've enjoyed working with her a great deal and found her very pleasant and forthright. The other thing that I think is real important is to recognize that nobody needs to be surprised when your neighbor is spraying pesticides. I think we all agree to that. The fact of the matter is the easiest and most effective way to make sure that you're notified, quite frankly, is to reach out to that neighbor that's growing corn next to your home or blueberries or whatever the crop happens to be and say, "You know, when you get ready to spray would you mind giving

me a call? By the way, what are you planning on spraying this year?" Guess what? That farmer then has the obligation to make sure that you are notified of what he's spraying and when he's going to spray it. I just think that's important to note. Thank you, Mr. President.

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

Senator **WOODBURY:** Thank you Mr. President. If I ever want to do a filibuster I'd definitely like the Senator from Penobscot, Senator Schneider, on my side. Having looked at her amendment, I find it imminently sensible. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Adopt Senate Amendment "B" (S-160) to Committee Amendment "A" (H-244). 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 (#111)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - GARRETT P. MASON

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ADOPT** Senate Amendment "B" (S-160) to Committee Amendment "A" (H-244), **FAILED**.

Committee Amendment "A" (H-244) **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

Bill "An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements" (EMERGENCY)
H.P. 105 L.D. 123

Tabled - May 25, 2011, by Senator **WHITTEMORE** of Somerset

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

(In House, May 23, 2011, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 24, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In Senate, May 25, 2011, **READ A SECOND TIME**.)

On motion by Senator **WHITTEMORE** of Somerset, under unanimous consent on behalf of Senator **MASON** of Androscoggin, Senate Amendment "A" (S-163) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Somerset, Senator Whittemore.

Senator **WHITTEMORE:** Thank you Mr. President. This amendment does nothing other than remove the Emergency Preamble in the Emergency clause. Thank you.

Senator **BARTLETT** of Cumberland requested a Division.

Same Senator requested a Roll Call.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#112)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MCCORMICK, PLOWMAN, RAYE, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - GARRETT P. MASON

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, LANGLEY, PATRICK, RECTOR, SCHNEIDER, SULLIVAN, TRAHAN, WOODBURY

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **WHITTEMORE** of Somerset to **ADOPT** Senate Amendment "A" (S-163), **FAILED**.

Senate at Ease.

Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

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

Off Record Remarks

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

Off Record Remarks

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

Off Record Remarks

Senator **SCHNEIDER** of Penobscot 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.

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Thursday, May 26, 2011, at 10:00 in the morning.