

# MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature

State of Maine

Daily Edition

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

In Senate Chamber  
Thursday  
June 2, 2011

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

Prayer by Senator Debra D. Plowman, Penobscot County.

**SENATOR PLOWMAN:** Good morning. Every morning as I stand at my seat and we begin the day with a prayer and a pledge of allegiance I'm reminded how grateful I am to live in the United States of America and it's a privilege and honor for us to be able to start the day that way. If we could bow our heads and start our day.

Dear Lord, thank You again for the opportunity to come to this place and to work in the name of the people who have elected us. Lord, we ask You that sometime today that You put in our way a person who will challenge us to be better in some way, shape, or form and that later in the day we become the person that challenges the individual that we meet to become better. In that way, Lord, today we will make a difference. We ask this in Your name. Amen.

Pledge of Allegiance led by Senator Philip L. Bartlett, II of Cumberland County.

Reading of the Journal of Wednesday, June 1, 2011.

Doctor of the day, Richard Fein, DO of Manchester.

Off Record Remarks

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from 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  
(C "A" S-153)

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-153)** (2 members)

In Senate, May 31, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-153)**.

Comes from the House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

Senate at Ease.

Senate called to order by the President.

**REPORTS OF COMMITTEES**

**House**

**Pursuant to Joint Rule 309**

From the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Prohibit Forced Payment of Labor Union Dues or Fees by Workers" H.P. 595 L.D. 788

Received by the Clerk of the House on May 16, 2011, pursuant to Joint Rule 309.

Comes from the House with the Report **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

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

**Ought to Pass Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "Joint Order Establishing the Joint Select Committee on Health Care Costs"

H.P. 597

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-439)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Joint Order **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-439)**.

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

Committee Amendment "A" (H-439) **READ** and **ADOPTED**, in concurrence.

**PASSED AS AMENDED**, in concurrence.

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**Ought to Pass As Amended**

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Provide Rebates for the Purchase of Certain Solar and Wind Power Equipment"

H.P. 568 L.D. 761

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

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

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

**READ ONCE**.

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

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

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The Committee on **JUDICIARY** on Bill "An Act To Amend the Gift Card Laws"

H.P. 200 L.D. 247

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-442)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442)**.

Report **READ**.

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.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence. (Roll Call Ordered)

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The Committee on **JUDICIARY** on Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee"  
H.P. 852 L.D. 1154

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-441)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-441)**.

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

**READ ONCE**.

Committee Amendment "A" (H-441) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **JUDICIARY** on Bill "An Act To Clarify Rights-of-way Laws"

H.P. 1082 L.D. 1473

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-440)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-440)**.

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

**READ ONCE**.

Committee Amendment "A" (H-440) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Increase Access to State Rule-making Notices"  
H.P. 700 L.D. 940

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-445)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-445)**.

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

**READ ONCE.**

Committee Amendment "A" (H-445) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TRANSPORTATION** on Bill "An Act To Raise the Speed Limit on Interstate 95 between the City of Old Town and the Town of Houlton"

H.P. 1143 L.D. 1557

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-447)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-447)**.

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

**READ ONCE.**

Committee Amendment "A" (H-447) **READ** and **ADOPTED**, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Impose a Penalty for Making False Claims Regarding Military Service"

H.P. 354 L.D. 461

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

Signed:

Senators:

MASON of Androscoggin  
GERZOFKY of Cumberland  
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham  
BURNS of Whiting  
CLARKE of Bath  
HANLEY of Gardiner  
HASKELL of Portland  
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-423)**.

Signed:

Representative:

BLODGETT of Augusta

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

Reports **READ**.

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

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**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Exempt Firearms Manufactured in this State from Federal Regulation"

H.P. 866 L.D. 1168

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

Signed:

Senators:

MASON of Androscoggin  
GERZOFKY of Cumberland  
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham  
BLODGETT of Augusta  
CLARKE of Bath  
HANLEY of Gardiner  
HASKELL of Portland  
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**.

Signed:

Representative:

BURNS of Whiting

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

Reports **READ**.

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

**Divided Report**

The Majority of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Create the Children's Wireless Protection Act"

H.P. 750 L.D. 1014

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

Signed:

Senators:

THIBODEAU of Waldo  
BARTLETT of Cumberland  
RECTOR of Knox

Representatives:

FITTS of Pittsfield  
CORNELL du HOUX of Brunswick  
CRAY of Palmyra  
DION of Portland  
DUNPHY of Embden  
HAMPER of Oxford  
LIBBY of Waterboro  
LUCHINI of Ellsworth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-404)**.

Signed:

Representatives:

BEAVERS of South Berwick  
HINCK of Portland

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-404)**.

Reports **READ**.

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

Senator **BARTLETT:** Thank you Mr. President. I rise to explain my vote today. It will be different from the vote in committee. My original concern with the bill and its approach was that there was scientific evidence that seemed to be all over the place or competing and it was difficult for me to assess the merits of these various scientific proposals. Two days ago, however, after

leaving Augusta, in the evening I got an alert from CNN on my cell phone, oddly enough, indicating that the World Health Organization had reviewed 31 scientists from 14 different counties, reviewed the literature, and concluded that there was sufficient evidence to link or label cell phone use as a possible carcinogen with a risk for brain cancer. Based on that newly evolving data, I am now prepared to change my vote and support this piece of legislation. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I remember when this bill, or a similar bill, came forward in the last session. I've always been really reluctant about these warning labels because I think, in some degree, we sort of turn off to them and they don't really achieve the outcome that we would hope for, which is to let people know when there really is a danger or potential danger to something and that they should make a judgment as to whether or not they want to use a particular product or not. I struggled with this bill because of that. After I read some of the literature, I remembered that I called my friend and talked to her about my niece. I said that I thought that maybe she would want to consider potentially keeping cell phones away from her during her development because I was concerned that perhaps there might be, or could be, a potential harm to her. Whether there is or not is not exactly clear to me at this point in time. Because of the possibility and because there is a heightened level of awareness going on, and I'm hoping that we will continue that, I have decided to support this measure because it's not actually changing much. Apparently cell phone manufacturers already put a warning in their manual. They just bury it inside of the literature. What this is saying is that it's sort of elevating it to a more prominent place. I think that it is a reasonable thing to do given all the medical awareness out there that this could be a potential issue, especially for developing brains for children. I urge you to vote against the Majority Ought Not to Pass Report.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I, too, rise in support of this. My support comes about in several different ways. I guess the most important is that we've been elected to set public policy and to protect people. We know so much now about how the human brain develops. We have done study after study. We know that the brain, up until the age of 3, grows more and learns more even before they get to school. I believe strongly in an ounce of prevention for a pound of cure. This bill we're talking about has been reduced to simply putting an alert that says, "Please see safety precautions inside." I don't know about you, when I get that book, written in 18 different languages and you have to go through and find where the English is, I don't bother to read it. I confess. I don't read it. I don't read insurance policies either and I've been told I was a bad person for not doing that. It's too much. I don't bother to do it. How can it hurt if we help one child by putting a simple alert, "Please see instructions for safe use"? If you've seen children now at the age of 6 and 7, they all have a cell phone. I don't know how kids got to be so important, and adults, that we can't get in the car and drive from here to MacDonald's without having

to call four people. It's gotten to be a real problem. There's always that phone up to our ear. Perhaps this is similar to texting for adults behind the wheel. Kids have that phone implanted in their ear. We used to talk about cauliflower ear because we used the old phones, you know, those land phones. I think I had to actually dial on mine when I was growing up. We had party lines. I diverse. I think it's important. Please consider a simple alert message. That's all we're asking. It might help a child. I would ask you to vote against the pending motion. Thank you.

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

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, I appreciate that we have the opportunity to talk about the amendment that has been moved and certainly we understand the other amendment now too because we've clearly talked about that and understand what it is. Maybe that's important. I just want everybody here to understand that all cell phones that are sold here in the U.S. must meet FCC, Federal Communications, RF exposure standard. There is a standard. It is reviewed, not just regularly, ongoing. Whether or not there is a recent report that just came out or not, I am sure that the people that are regulating this RF and making sure that the cell phones are safe for all Americans, are reading that report as well. Not just the folks here in Maine. That wasn't a press release that just happened in one of our local papers. This is a national issue and I am sure that, on a national basis, they are reviewing that document and making sure that all Americans are not put at undue risk. When we talk about a safety warning, a safety notice, we need to be very, very careful. I understand that the thinking, "Well, what's the harm?" "How could it hurt to put a safety notification on it?" The fact of the matter is that safety notifications are very, very important to consumers and people all across this state because when they read it they recognize that this has a hazard involved. If we start putting in notifications on stuff that, quite frankly, we might not be sure is really a hazard that's a dangerous situation because it creates a situation where folks will disregard the safety notifications. I say to let's let the FCC do their work. Let's make sure that Maine consumers are protected when the FCC does their work and makes sure that, indeed, there is a real issue here. I appreciate the debate and I know we are all very concerned. We want to make sure that in no way do we put any of our loved ones or any of the citizens of the state of Maine at undue risk, but I don't think we are. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, to follow up on the comments of my colleague from Waldo, Senator Thibodeau, about the FCC. I think there have been a number of excellent arguments made here this morning about why the FCC might or might not want to consider imposing these warnings. I really think that is the jurisdiction where this belongs. There are certain areas of the law where the federal government weighs in. They occupy the field. It's called preemption. This is one of them. Federal courts have long recognized that, for better or worse, and we may disagree with this, when it comes to technical and operational aspects of wireless communications it's a federal issue. If there are going to be regulations they are going to come from the FCC. In fact, as I

understand it, there is no other state that requires these labels. If we become the first I suspect that will be met with a lawsuit that we will have to defend at some considerable expense. It's way outside my field of practice, but what I would expect we would lose that lawsuit at some considerable cost. Thank you.

**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 think history has shown throughout our country many products that have been touted to be without any defects and without any problems have caused billions of dollars of lawsuits down the road, whether it be drug companies, chemical companies, or anything. The Federal Communications Commission has stressed repeatedly that it is not a health and safety agency and would defer to the judgment of these expert agencies with respect to determine appropriate levels of safe exposure to radio frequency energy. The FCC relies on the Food and Drug Administration and other health agencies for safety questions about wireless phones. Under the law, the FDA does not review the safety of radiation admitting consumer products, such as mobile phones, before they can be sold as they do with new drugs and medical devices. There is no federally developed national standard for safe levels of exposure to radio frequency energy. If I'm going err on anything I'm going to err on the side of caution. I will be voting against the Ought Not to Pass report. Thank you, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. May I pose a question?

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

Senator **SULLIVAN:** Thank you Mr. President. It is my understanding, and my experience, that when we open the book that there is already a safety announcement within the book, itself, of instructions. It appears to me that the FCC and all have decided to put that within a book. Why would there be a lawsuit over putting that there is information in the book?

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I'm not rising to answer that because I don't know the answer to that question. I am rising because I just wanted to mention a few things that had been touted to be safe by our federal government like Fen-Phen, for example, a drug that recently a friend of a friend just died of complications from that. What about asbestos? There are so many things that we supposedly believed we are to be protected from. A new study about blood clotting from the Pill, especially in young people. That's these new drugs that are coming out all the time. I am concerned, and I think that is what we're talking about here. Even if this doesn't pass I think the good thing about this conversation is that the people of Maine will think about whether or not they

want their children to be constantly having cell phone waves going to their child's brain. I think in that regard we are doing something positive here, because at least we're letting parents understand that there is a potential danger there. I think that this is what we're really talking about here. We're talking about raising awareness. Personally, I'm not sure that by putting it more prominently on the outside of a box or on the cell phone it's really going to achieve the intended goal. In fact, I think what we're doing here right now is probably more advantageous because it will, more than likely, get out to the public, especially given the new warning or the new level of awareness that is being spread across the United States, and probably the world, right now about this issue, that it could be a potential problem for young developing brains. I think that regardless of what happens with the outcome of this, and whether or not you support the Ought Not to Pass report or you support the way I'm going to go, which is to vote against the pending motion, I think we are going to achieve some good things here today. I think that there is a potential for danger and because of that we should consider voting against the pending motion. Thank you very much, Mr. President.

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I agree. Talking about this is very important. The last time we had this bill in my committee at the time, Health and Human Services, I was all alone in bringing it out. The reason I brought it out was because I thought we ought to talk about it and point out, at least verbally, that these warnings are in the manuals and that there are people that are very, very passionate because they believe that tumors were caused by especially the early cell phones and people who happened to be on them for hours and hours a day. I think this is very mild, putting this warning. When it started they wanted to put a sticker on the phone that would scare the pants off the kids or me or anybody that has pants on. We are here to talk about it. Some have said that we follow exactly the way we're supposed to use these. We're supposed to keep them away from our head. We're not doing that. There is no real warning to do that in a way that see and follow. I think we should be a leader in the warning and I have no problem voting against the pending motion and voting for this bill. Thank you, Mr. President.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, this I have deliberated over quite a bit. I have also done a lot of research on my own in regards to this particular bill. I see this bill as a caution sign. Personally, I don't have a problem with it. I think that it is a good thing for all the reasons that have been stated. As we have looked back in our history; the tobacco issue, there's alcohol, there's carcinogens all around us. I realize that we have to take it upon ourselves. We are responsible for ourselves to make the choices that we make. However, as it was mentioned earlier, there are a lot of young kids. I have eight grandchildren and they have these cell phones to their ears all the time. I know that the evidence is not conclusive, but I think there's enough of it for me to put the caution flag up. I'd do this as a caution. If the notice is going to

be put on the package so that people will take note of it I don't have an issue with that. I'm going to be voting against the pending motion. 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, I heard the testimony about this this weekend where the World Health Organization has decided that this may cause cancer, but I'm looking at the warning label and the word cancer is nowhere used. It says to avoid contact with your head and your body. It talks about genetic and reproductive changes, none of which I heard on the WHO report. The prescription of the sign that has to go into the business seems to have nothing to do with the development of evidence, a suggestion that there is a causal effect. All of a sudden we've gone from a suggestion of a causal effect to genetic changes or reproductive organ damage. I understand in here there is one line that said you should limit use by children and pregnant women should not use cell phones. This sign that is supposed to go on it is sort of over-kill, in my estimation. Scaring someone half to death and advising them, it's amazing to me. When I get my prescription, I wouldn't take a prescription ever if I read the whole label warning that came with it. I do understand that there is a suggestion that by telling what page it on this will this protect you somehow from some effects. These effects, if they are happening, I think we should find out. I really do. I'm not ready to suggest that all of these things, while possible, are probable. I'm amazed at the extent to which the warning went to. With regard to that, we've gone off the subject. The subject was to let people know that there is an organization that checks into these things that has concerns. This goes way beyond that. I can see the Sokolove ad now. It's absolutely amazing. As a cell phone user, I can only imagine, and there are millions of cell phone users, that number is going to ring off the wall because suddenly everyone is going to believe that everything that ever happens to them was caused by a cell phone. A little bit of caution here. A little bit of judicious use of terminology. With what happened over the weekend, this might be considered a reasonable bill, but not the way it's written. I can't vote for it the way it's written. When we talk about common sense, like what we heard about this weekend, that's very moving, but when you compare it to the wording of the bill it is not. I will be turning this down because of the over-reach of the bill. I appreciate the efforts that were put into it, but I will be opposing 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 don't know about Sokolive, but I think it's Joe Bornstein that is the one to go to.

Yesterday I sent out a little information sheet. I was proud to send it out on behalf of Representative Boland and myself. It's titled Cell Phones Are Not the Enemy But Lack of Sufficient Health and Safety Awareness Is. It has some information on it. One is Representative Beliveau's Blackberry Torch user manual. To reduce radio frequency exposure consider these safety guidelines, on page 23. Use the Blackberry device in areas where there is strong wireless signal. A reduced signal display



might indicate increased power output. Use handsfree operation if it is available and keep the Blackberry device at least .98 inches from your body, including the abdomen of pregnant women and the lower abdomen of teenagers when the Blackberry device is turned on. In Dangerous Areas: the Blackberry device is not an intrinsically safe device and is not suitable for use in hazardous environments. Representative David Cotta's Motorazr, page 88. If you are concerned, you may want to limit your own or your children's radio frequency exposure by limiting the length of your calls or by using handsfree devices to keep the mobile phones away from your head and body. Source: WHO fact sheet, page 193. Representative Steve Hanley's Samsung manual. From the FDA, pages 123 and 124. When the phone is located at greater distances from the user, the exposure to radio frequency is drastically lowered because a person's radio frequency exposure decreases rapidly with increase in distance from the source. Under law, the FDA does not review the safety standards of radiation-emitting consumer products such as wireless phones before they can be sold as it does with drugs and medical devices. I think I already said that once. What about children, on page 126. Some groups sponsored other national governments have advised that children be discouraged from using wireless phones at all. Representative Boland's 2004 Nokia manual, page 58. Vehicles - radio frequency signals may affect improperly installed or inadequately shielded electronic systems in a motor vehicle such as electronic fuel injection systems, electronic antiskid braking systems, electronic speed control systems, and air bag systems. Potentially explosive environments - switch off your device when in any area with a potentially explosive atmosphere. Sparks in such areas could cause an explosion or fire resulting in bodily injury or even death. Representative Boland's 2008 Verizon manual, page 3. Do not hold or let the antenna come in contact with your body during a call.

Ladies and gentlemen, it has all of these warnings and every model is different. I think I learned the lesson with cell phones because I just learned the same warnings on drugs. I recently saw the doctor and he prescribed a drug to me and I asked the doctor, "Is this one of them dumb drugs that you have to go and have a liver test every two weeks because I'm scared to death. If it can affect your liver, I don't want it." He said, "No it isn't. No problem. Just a minor little thing." Guess what, three days from then I almost ended up in the hospital, dying, because I failed to read the rest of them because I didn't take the time to find out what the other recommendations and hazards were. While I was having a bad spell I asked my wife, "Get the thing out and read them and see what problems I'm having, where they fall under this drug thing." These types of things, maybe their in their infancy and over time we will learn a lot more, but I am not willing to go along with not having a more prominent warning in the proper place. We're talking about the health of the people of the state of Maine, potentially our children, and pregnant women. We've got to do this and I will be voting against the Ought Not to Pass motion.

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

Senator **BARTLETT:** Thank you Mr. President. I rise to respond to the very pointing criticism of the bill raised by the Senator from Penobscot, Senator Plowman. I agree with her whole heartedly that the bill, as written, should be rejected and the fact that there is not a person on the committee who believed that the bill ought

to have passed as written. The question is now whether we pass the original bill and very detailed warnings. The concern that a lot of us have is that currently in manuals, as you've heard here on the floor, there are safety instructions, there are warnings, and there is information contained within those booklets. None of us want to prescribe exactly what goes in those warnings. The issue is when that warning is given should it simply be buried in page 102 out of 160 pages or should there be some indication on the box that there is safety information inside. That's what we are debating here. Those of us who are opposing this pending motion, or some of us who are opposing this pending motion, are doing it because we simply want a sticker on a box that would indicate that there is safety information inside, on page 122. We're not asking that anything be changed except that people be told where they can find the safety information, if there is any. If the provider doesn't want to provide that information, fine. They don't have to. They can provide whatever they are required to by the FCC. If they are going to provide it, they need to let people know it's there. The concern is very simple. Manufacturers presumably provide these warning and safety information so that if they ever get sued they can say, "Wait a minute, it's in there. We warned you." We're simply saying that if they are going to get the benefit of that they ought to tell people where they can find that safety information or warning. Thank you, Mr. President.

**THE PRESIDENT:** 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. I will be brief because I know Mr. President is trying to move paper along. In light of that, I just wanted to make one point about whether it's a bad business bill or a good business bill. I think actually this is a good business bill if we reject the Ought Not to Pass report. In this way, because of all the press and because of what we're discussing here, I certainly believe that all the accoutrements which is where a lot of businesses make their money will rise because I believe that people will be very interested in purchasing, for example, handsfree devices. I don't think that we should be afraid of this being in some way harmful to businesses. Thank you very much, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I'm not sure I agree with my colleague from Penobscot. If we become the only state in the country to require these labels now there would have to be a separate stream of boxes coming out of the plant for Maine, as opposed to everywhere else in the world. I don't see how that's going to lower costs. I just want to make one more point if I could, Mr. President, about what it is exactly that the World Health Organization found here. The International Agency for Research on Cancer, which is a part of that organization, classified this as a 2B score. A 2B score is defined as possibly carcinogenic based upon "limited evidence". It's interesting to look at other substances which have also gained the same risk level of 2B. They include coffee and pickled vegetables. I'm pleased to report, Mr. President, that mustard was not included. If this should pass, I look forward to the bill in

the next session for warning labels at Starbucks and at farm stands. Thank you, Mr. President.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I just wanted to say that many states, and California is way ahead of Maine, are in the process of some kind of legislation similar to this. All around the world as well. I was actually not in favor of this bill last year but have changed my mind because I think that it's better to be cautious then just to allow all of our children to put themselves in this situation. I just want to point out too that I have three small grandchildren. They hate coffee. They never drink it. I know that it would be bad for them if they did. Thank you very much, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Waldo, Senator Thibodeau 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 (#145)**

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

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, HILL, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, THOMAS, WHITTEMORE

**EXCUSED:** Senators: DIAMOND, GOODALL

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **THIBODEAU** of Waldo to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Strengthen the Laws on Methicillin-resistant Staphylococcus Aureus and To Improve Health Care" H.P. 220 L.D. 267

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

Signed:

Senators:

McCORMICK of Kennebec  
CRAVEN of Androscoggin  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
FOSSEL of Alna  
MALABY of Hancock  
O'CONNOR of Berwick  
PETERSON of Rumford  
SANBORN of Gorham  
SANDERSON of Chelsea  
SIROCKI of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-415).**

Signed:

Representative:

STUCKEY of Portland

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

Reports **READ.**

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

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Study Allocations of the Fund for a Healthy Maine

H.P. 1144 L.D. 1558

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-417).**

Signed:

Senators:

CRAVEN of Androscoggin  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
FOSSEL of Alna  
MALABY of Hancock  
O'CONNOR of Berwick  
PETERSON of Rumford  
SANBORN of Gorham  
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**.

Signed:

Senator:

McCORMICK of Kennebec

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-417)**.

Reports **READ**.

Senator **McCORMICK** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report, in **NON-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 Androscoggin, Senator Craven.

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, it's a good thing that somebody alerted me that my good Chair was just making the motion to pass his tiny, teensy-weensy Minority Report, just himself. As much as I care about him dearly and agree with him a lot of the time, this is really a good bill and what it does is allows for a review of the Fund for a Healthy Maine. I think with all of the distractions and also gouging the fund this year, it's really made a lot of people very nervous. This report came out of the Government Oversight Committee as a suggestion to take a look at the programs. I'm hoping very much that my good Government Oversight Committee Chair will stand and support this measure as well. He came to our committee, as a matter of fact, to support the bill and to support the initiative. Thank you very much, Mr. President.

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

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, the previous speaker, the Senator from Androscoggin, Senator Craven, is exactly right. This is a good bill. It came out of the OPEGA Committee as a recommendation. It simply establishes a commission with the task of reviewing whether allocations of the Fund for a Healthy Maine are properly

aligned with the State's current public and preventive health priorities, strategies, and goals and to recommend adjustments to the allocations as necessary. They have not been reviewed since 1999 and this is simply an effort to do that. I agree completely with the Senator from Androscoggin, Senator Craven. This is a particularly contentious issue given the realignments that were taken place with the Fund for a Healthy Maine in the current budget proposal. The motion is Ought to Pass on this. I am completely in support of it and I urge your support as well. I agree with the bill as presented and I urge your support. Thank you very much.

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

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by Senator **McCORMICK** of Kennebec to **ACCEPT** the Minority **OUGHT TO PASS** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow a Snowmobile Registered in New Hampshire To Be Operated in This State"  
H.P. 729 L.D. 993

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

Signed:

Senators:

MARTIN of Kennebec  
PATRICK of Oxford  
TRAHAN of Lincoln

Representatives:

DAVIS of Sangerville  
BRIGGS of Mexico  
CRAFTS of Lisbon  
EBERLE of South Portland  
ESPLING of New Gloucester  
GUERIN of Glenburn  
SARTY of Denmark  
SHAW of Standish  
WOOD of Sabattus

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

Signed:

Representative:

CLARK of Millinocket

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-364) AS AMENDED BY HOUSE AMENDMENT "A" (H-426)** thereto.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-364) **READ**.

House Amendment "A" (H-426) to Committee Amendment "A" (H-364) **READ**.

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

Senator **SULLIVAN:** Thank you Mr. President. May I pose a question?

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

Senator **SULLIVAN:** Thank you Mr. President. According to this it says "An Act to Allow a Snowmobile Registered in New Hampshire to be Operated in This State". Is that reciprocal, that we are allowed to operate in New Hampshire? That would be my question.

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

Senator **SULLIVAN:** Thank you Mr. President. I want to explain my vote. I would vote in opposition if it's not reciprocal. I certainly would take away if Maine citizens were getting the same chance to go to New Hampshire. For me, the question becomes very important.

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

Senator **MARTIN:** Thank you Mr. President. This is a reciprocity bill.

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

Senator **SCHNEIDER:** Thank you Mr. President. I'm not clear on the House Amendment. Am I correct in saying that it repeals the reciprocity piece on October 2013? If so, why? If there could be

some understanding about what we are trying to do here that would be helpful.

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

Senator **MARTIN:** Thank you Mr. President. The amendment was just a sunset addition to that bill so it will come back to the committee for review.

House Amendment "A" (H-426) to Committee Amendment "A" (H-364) **ADOPTED**, in concurrence.

Committee Amendment "A" (H-364) as Amended by House Amendment "A" (H-426) thereto, **ADOPTED**, in concurrence.

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

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#### Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Enforcement by a Federal or State Official of the Federal Patient Protection and Affordable Care Act"

H.P. 924 L.D. 1233

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

Signed:

Senators:

WHITTEMORE of Somerset  
BRANNIGAN of Cumberland  
SNOWE-MELLO of Androscoggin

Representatives:

RICHARDSON of Warren  
BEAUDOIN of Biddeford  
BECK of Waterville  
FITZPATRICK of Houlton  
GOODE of Bangor  
MORISSETTE of Winslow  
MORRISON of South Portland  
PICCHIOTTI of Fairfield  
TREAT of Hallowell

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-432)**.

Signed:

Representative:

McKANE of Newcastle

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.

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Unicameral Legislature  
H.P. 599 L.D. 804

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-347)**.

Signed:

Representatives:

- COTTA of China
- BOLAND of Sanford
- BOLDUC of Auburn
- CASAVANT of Biddeford
- CELLI of Brewer
- GRAHAM of North Yarmouth
- HARVELL of Farmington
- KAENRATH of South Portland

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

Signed:

Senators:

- THOMAS of Somerset
- COLLINS of York
- SULLIVAN of York

Representatives:

- MOULTON of York
- TURNER of Burlington

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-347)**.

Reports **READ**.

On motion by Senator **THOMAS** of Somerset, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Protect Property Tax Revenue in the Unorganized Territory"  
H.P. 855 L.D. 1157

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-379)**.

Signed:

Senator:

TRAHAN of Lincoln

Representatives:

- KNIGHT of Livermore Falls
- BENNETT of Kennebunk
- BURNS of Alfred
- BICKFORD of Auburn
- BRYANT of Windham
- HARMON of Palermo

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

Signed:

Senator:

WOODBURY of Cumberland

Representatives:

- PILON of Saco
- BERRY of Bowdoinham
- WATERHOUSE of Bridgton

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

Reports **READ**.

On motion by Senator **TRAHAN** of Lincoln, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

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**Senate**

**Ought to Pass As Amended**

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Develop a Plan To Improve Public Guardianship Services to Adults with Cognitive Disabilities  
S.P. 373 L.D. 1252

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-222)**.

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

**READ ONCE**.

Committee Amendment "A" (S-222) **READ** and **ADOPTED**.

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

Sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish Standards for Portable Electronic Device Insurance"

S.P. 455 L.D. 1464

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-212).**

Signed:

Senators:

WHITTEMORE of Somerset  
BRANNIGAN of Cumberland  
SNOWE-MELLO of Androscoggin

Representatives:

BEAUDOIN of Biddeford  
BECK of Waterville  
FITZPATRICK of Houlton  
GOODE of Bangor  
McKANE of Newcastle  
MORISSETTE of Winslow  
MORRISON of South Portland  
TREAT of Hallowell

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

Signed:

Representatives:

RICHARDSON of Warren  
PICCHIOTTI of Fairfield

Reports **READ.**

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

**READ ONCE.**

Committee Amendment "A" (S-212) **READ** and **ADOPTED.**

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

Sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Improve Transparency in Maine Government"

S.P. 381 L.D. 1260

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

Signed:

Senators:

FARNHAM of Penobscot  
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn  
CROCKETT of Bethel  
DAMON of Bangor  
JOHNSON of Eddington  
WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-219).**

Signed:

Senator:

PATRICK of Oxford

Representatives:

CAREY of Lewiston  
CHIPMAN of Portland  
LONGSTAFF of Waterville  
RUSSELL of Portland  
VALENTINO of Saco

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

Reports **READ.**

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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:** 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'm going to ask you to reject the Majority Ought Not to Pass Report because just the other day we talked about transparency and disclosure and the vast majority of this Body jumped on board because they believe in transparency and disclosure. I'm hoping that you will see the light and come over to the Minority Report because the Minority Report basically is to take the

**THE PRESIDENT:** To what purpose does the Senator from York, Senator Courtney, rise?

Senator **COURTNEY:** Point of order, Mr. President. It seems like all morning we've been discussing the Minority Reports and we really have a lot of business to conduct. I wonder if we could focus on the Majority Report and discuss the report that is properly before us.

**THE PRESIDENT:** The Chair would advise members of the Senate that, as is his practice, he has been quite permissive, however we do need to focus on the matter at hand so that debate is unnecessarily strung out. The Senator will please confine his comments to the matter before us.

Senator **PATRICK:** Thank you Mr. President. I apologize, Mr. President. I'm going to be going against the Majority Ought Not to Pass Report because the Majority Ought Not to Pass Report does not contain in it anything to do with transparency or disclosure. The Majority Ought Not to Pass Report does not contain within it anything to do with the Governor's transition team. The Majority Ought Not to Pass Report does not have within it anything that will lead to more transparency and disclosure. As a matter of fact, the Majority Ought Not to Pass Report stifles transparency and disclosure.

**THE PRESIDENT:** To what purpose does the Senator from York, Senator Courtney, rise?

Senator **COURTNEY:** Thank you Mr. President. Point of order, it would appear that the good Senator is discussing the Minority Report.

**THE PRESIDENT:** The Chair would advise that the Senator is certainly skating very close to the edge and I would ask that you confine your comments to the matter before us.

Senator **PATRICK:** Thank you Mr. President. I apologize for a second time. I would ask that the members of the Body reject the Ought Not to Pass Report so that, for the benefit of the citizens of the state of Maine, we can move onto something that is near and dear to all of our hearts. With that, ladies and gentlemen of the Senate, I thank you.

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Off Record Remarks

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

Senator **BARTLETT:** Thank you Mr. President. I rise to speak about the bill, itself, that was before this committee. I do note that most of the provisions were not supported by members of the committee. There is one provision that I would like to call your attention to, however. Those are sections 3 and 4 of the original bill which deal with the transition team of a Governor-Elect. It simply requires that any records of or relating to the transition team of a Governor-Elect are public records. The idea behind this provision is to make sure that when you're doing the people's

business you are subject to the Freedom of Access Act. We're all subject to it when we are doing the people's business. Once in office, a Governor is responsible. The question is, during that transition period, when policy is being established and decisions are being made, should that be open to the same Freedom of Access that every other part of government is? That's an important part of this bill. I would hate to see it lost by accepting the Ought Not to Pass Report.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I would refer you to the comments of the Senator from Cumberland, Senator Bartlett. Once he is in office, once the Governor-Elect comes into office, then everything should be available. Just like the members of the Legislature, between the time we are elected and the time we're sworn in our communications are not public. They are not subject to FOA and that's because we are not yet a member of the government. We are only the obviously elected individual. The duties officially begin the day of the swearing in. Everything that happens before is in preparation for the swearing in and for putting together a cabinet and policy making, which will then all be exposed to the public as it goes forward. That's how it's been. This bill doesn't include Legislators. Interestingly, it's never come up before. I urge you to accept the Majority Ought Not to Pass Report. Thank you.

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

Senator **WOODBURY:** Thank you Mr. President. May I pose a question through the Chair?

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

Senator **WOODBURY:** Thank you Mr. President. My question is, would the provisions of the bill apply only going forward or would there be any retroactive application to meetings that have already happened?

**THE PRESIDENT:** The Senator from Cumberland, Senator Woodbury poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. The way the bill is it would be prospectively. There was never any intent in the debate in committee to look at anything that transpired within the course of our current Governor's transition team. I think what the debate in committee actually was that the peripheral stuff that happens at the start has nothing to do with Freedom of Access. Once the transition team gets into a mode where, from day one, they start out knowing where they are heading policy-wise and then any transition team is actually interacting in business, almost near the end of the transition cycle. It was looked at upon that the future any transition team, no matter what party, would only have to disclose the stuff that pertains to them making the decisions for the business of the citizens of the state of Maine. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham 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 (#146)**

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

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFSKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

**EXCUSED:** Senators: DIAMOND, GOODALL

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator FARNHAM of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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**Divided Report**

Six Members of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish an Insurance Fraud Division within the Department of Professional and Financial Regulation, Bureau of Insurance"  
S.P. 280 L.D. 892

Reported in Report "A" that the same **Ought Not to Pass**

Signed:  
Senator:  
BRANNIGAN of Cumberland

Representatives:  
RICHARDSON of Warren  
FITZPATRICK of Houlton  
GOODE of Bangor  
MORRISON of South Portland  
TREAT of Hallowell

Six Members of the same Committee on the same subject reported in Report "B" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-211)**.

Signed:

Senators:  
WHITTEMORE of Somerset  
SNOWE-MELLO of Androscoggin

Representatives:  
BECK of Waterville  
McKANE of Newcastle  
MORISSETTE of Winslow  
PICCHIOTTI of Fairfield

Reports **READ**.

Senator **WHITTEMORE** of Somerset moved the Senate **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED**.

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

Senator **BRANNIGAN:** Thank you Mr. President. I just want to make my Chair honest. Given that he called this a majority report, I think I'll join him and then it will be truly a majority report. I was missing through illness during the quick debate and the hearing and work session. After studying it more and hearing more from the Bureau of Insurance, I do join him in passing this piece of legislation. Thank you.

On motion by Senator **WHITTEMORE** of Somerset, Report "**B**", **OUGHT TO PASS AS AMENDED ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-211) **READ** and **ADOPTED**.

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

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

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**SECOND READERS**

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

**Senate As Amended**

Resolve, Reauthorizing the Balance of the 2005 Maine Biomedical Research Fund and Marine Infrastructure and Technology Fund Bond Issues (EMERGENCY)  
S.P. 86 L.D. 280  
(C "A" S-185)

Bill "An Act To Amend the Laws Governing Competitive Bidding for School Construction and Repair"  
S.P. 110 L.D. 397  
(C "A" S-187)



Bill "An Act To Amend the Laws Governing the Tax Assessment for Correctional Services in Lincoln County and Sagadahoc County"

S.P. 126 L.D. 422  
(C "A" S-209)

Bill "An Act Regarding the Disposition of Mercury-added Lamps"

S.P. 145 L.D. 512  
(C "A" S-203)

Bill "An Act Regarding Conveyance of Easements across Railroad Rights-of-way"

S.P. 147 L.D. 514  
(C "A" S-183)

Bill "An Act To Provide Funding for the World Acadian Congress"

S.P. 157 L.D. 565  
(C "A" S-184)

Bill "An Act To Support and Encourage the Use of Online Textbooks"

S.P. 161 L.D. 569  
(C "A" S-186)

Bill "An Act To Prohibit Electric Utilities from Entering into Long-term Supply Agreements"

S.P. 218 L.D. 729  
(C "A" S-193)

Bill "An Act To Protect Ratepayers While Enhancing Energy Independence and Security"

S.P. 231 L.D. 793  
(C "A" S-194)

Bill "An Act To Amend the Requirements for Electric Transmission Lines"

S.P. 246 L.D. 802  
(C "B" S-197)

Bill "An Act To Reduce Student Hunger"

S.P. 264 L.D. 860  
(S "A" S-206 to C "A" S-170)

Bill "An Act Regarding Prequalification Standards for Contractors"

S.P. 318 L.D. 1085  
(C "A" S-188)

Bill "An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes"

S.P. 374 L.D. 1253  
(C "A" S-210)

Bill "An Act To Strengthen Computer Privacy"

S.P. 405 L.D. 1308  
(C "A" S-208)

Bill "An Act To Amend the Department of Marine Resources' Administrative Suspension Process"

S.P. 453 L.D. 1462  
(C "A" S-190)

Bill "An Act To Amend the InforME Public Information Access Act"  
S.P. 482 L.D. 1521  
(C "A" S-195)

Bill "An Act To Create the Nickerson Lake Sewer District"  
S.P. 499 L.D. 1561  
(C "A" S-199)

Bill "An Act To Conform the Authority of the Department of Environmental Protection to Federal Law" (EMERGENCY)  
S.P. 507 L.D. 1575  
(C "A" S-201)

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

Sent down for concurrence.

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Bill "An Act To Protect Consumer Information at the Efficiency Maine Trust"

S.P. 478 L.D. 1516  
(C "A" S-198)

**READ A SECOND TIME.**

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

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Bill "An Act To Amend the Motor Vehicle Laws"

S.P. 410 L.D. 1313  
(C "A" S-192)

**READ A SECOND TIME.**

On motion by Senator **COLLINS** of York, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-192).

On further motion by same Senator, Senate Amendment "A" (S-218) to Committee Amendment "A" (S-192) **READ.**

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment, quite simply, allows all service members to qualify for the veteran's driver's license here in the state of Maine. Before it was kind of segregated but now it's open to all service members. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. Because of the door opening and closing, I don't know if I'm the only person who didn't hear anything that the good Senator said, but I was hoping that he could repeat the summary of the amendment.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment provides for a military service designation on a driver's license and it applies to all service members and honorably discharged veterans. It makes that provision effective with this legislation.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to elaborate a little further on what this amendment does. It is extremely important. Earlier in this session we passed a bill that allowed for designation on the driver's license for a veteran so that it would be more convenient for the veterans when they go to faculties that offer benefits to veterans. Instead of having to carry their paperwork, which can be 20 or 30 years old, they will simply have a designation on their license, which is the stars in the flag behind the person's picture. There was a problem with the bill as it was drafted when it was sitting on the Governor's desk. Instead of pulling that bill back to amend it to include all veterans, which was never the intent to restrict any veterans, we felt it would be better to just attach an amendment to a similar bill coming through the process. That's what this amendment is. Thank you.

On motion by Senator **COLLINS** of York, Senate Amendment "A" (S-218) to Committee Amendment "A" (S-192) **ADOPTED.**

Committee Amendment "A" (S-192) as Amended by Senate Amendment "A" (S-218) thereto, **ADOPTED.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-192) AS AMENDED BY SENATE AMENDMENT "A" (S-218) thereto.**

Ordered sent down forthwith for concurrence.

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**ENACTORS**

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

**Emergency Measure**

An Act To Clarify the Award of Fees in Domestic Violence Cases  
H.P. 1159 L.D. 1576

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

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**Acts**

An Act To Revise Notification Requirements for Pesticide Application

H.P. 181 L.D. 228  
(C "A" H-244)

An Act To Restrict Permits Available to the Holder of a Super Pack License

H.P. 630 L.D. 833  
(C "A" H-345)

An Act To Include Civics in the Social Studies and History Courses Required for a High School Diploma

H.P. 902 L.D. 1211  
(C "A" H-344)

An Act To Promote Transparency in the Medicaid Reimbursement Process

H.P. 1092 L.D. 1485  
(C "A" H-349)

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

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**Resolves**

Resolve, To Establish a Pilot Project for Independent Practice Dental Hygienists To Process Radiographs in Underserved Areas of the State

H.P. 183 L.D. 230  
(C "A" H-319)

Resolve, Authorizing the Bureau of Unemployment Compensation To Study Establishment of a Voluntary Workplace Training Program

H.P. 929 L.D. 1238  
(C "A" H-351)

Resolve, To Ensure a Strong Start for Maine's Infants and Toddlers by Extending the Reach of High-quality Home Visitation

H.P. 1105 L.D. 1504  
(C "A" H-348)

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

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**RECALLED FROM GOVERNOR'S DESK**

An Act To Modify the Laws Regarding Status as an Independent Contractor

S.P. 437 L.D. 1420  
(C "A" S-150)

(In Senate, May 31, 2011, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (S.P. 514).)

On motion by Senator **RECTOR** of Knox, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150)**.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-150).

On further motion by same Senator, Senate Amendment "A" (S-191) to Committee Amendment "A" (S-150) **READ**.

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

Senator **RECTOR:** Thank you Mr. President. This amendment adds one more participant in a discussion that is being addressed by this bill to come to a universal definition of independent contractor. It is a simple amendment that everyone has agreed to and I appreciate your indulgence in calling this back. Thank you, Mr. President.

On motion by Senator **RECTOR** of Knox, Senate Amendment "A" (S-191) to Committee Amendment "A" (S-150) **ADOPTED**.

Committee Amendment "A" (S-150) as Amended by Senate Amendment "A" (S-191) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-150) AS AMENDED BY SENATE AMENDMENT "A" (S-191)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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## ORDERS OF THE DAY

### Unfinished Business

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

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

SENATE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Clarify the Natural Resources Protection Act" (EMERGENCY)  
S.P. 276 L.D. 872

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-115)** (1 member)

Tabled - May 18, 2011, by Senator **SAVIELLO** of Franklin

Pending - **ACCEPTANCE OF EITHER REPORT**

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

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (5/25/11) Assigned matter:

HOUSE REPORTS - from 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

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-281)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-282)** (2 members)

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

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)** Report, in concurrence

(In House, May 25, 2011, 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)**.)

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

On motion by Senator **PLOWMAN** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-281)** Report **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-281) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (5/31/11) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit Tuition Subsidies by Municipalities"

H.P. 203 L.D. 250

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-356)** (4 members)

Tabled - May 31, 2011, by Senator **LANGLEY** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 31, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 31, 2011, Reports **READ**.)

Senator **LANGLEY** of Hancock moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-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 Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, if I had a recording of the conversation we had around the tax credit I would probably press it now and then you wouldn't have to hear me and you could just hear me again say some of the same comments that I said a couple of days ago. This bill essentially would give municipalities, if they voted for it, the opportunity, the power, to allow students and parents to go to those municipalities and to request that their General Fund, General Funds that are not getting any bigger with us cutting some of the revenue sharing and other different things, to allow them to pay for religious schools and private schools. The problems that we heard with some of these bills are consistent here too. There is a separation between church and State and schools and that should continue, in my opinion. In addition, the municipalities, in itself, were creating, I think, a puzzle that could create some massive problems. A municipality could approve the General Fund to be used, but as you all know there are AOS and RSU. You now have one community that says, potentially, their funds could be used to pay for religious schools or private schools. In that same RSU or AOS another community doesn't. All those funds are voted on in the budget validation process. We're talking a major complication happening all over the state of Maine. Before we get to any of that

complication, before we get to any of that confusion, I would just remind folks that we should be supporting our public schools and continue to support our public schools. There is over \$400 million that I wish, and I'm sure almost every member in this Body wishes, that we could fund K-12 education to 55%. I would ask you to reject the motion before us. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I'll rerun my tape recorder a little bit from a couple of days ago as well. To me, the key consideration here is honoring the separation between church and State. My belief is that it is not appropriate to use State money or municipal money to fund private/religious schools period. The law is, in the City of Augusta, that we can't send our parochial schools a check. We can't give a tax credit to parents. There are other parts of Maine law that are even more specific. In fact, this section of the law, itself, 28 MRSA Section 2951, right before the insertion of this language, says the following: a municipality may not provide services, materials, or equipment for use in religious courses, devotional exercises, religious training, or any other religious activity. I think, Mr. President, this really boils down to the question of either you think it's okay or it's not okay to subsidize parochial schools. Again, whether they are Jewish schools, Catholic schools, or any religious schools, I think the answer is no, whether it's a direct subsidy, a tax credit, or allowing municipalities to pay people to send their kids to those schools. Thank you, Mr. President.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I don't have a tape to rewind. I very cautiously tried to avoid engaging in the previous debate. I think there are a couple of things I want to point out. I think some of us have very different opinions on the Constitutional divide between separation of church and State. It's my understanding that the Constitution suggests that the government shall not give any preference to any specific religion, which I think is absolutely what we're all here to uphold. The town of Sanford supports the St. Thomas School in Sanford. There are about 200 children that go to that school. Last week, I wasn't able to get back because we were up in session, we had a town meeting. The town meeting voted to appropriate approximately \$100,000 to help with the transportation of students to go to the parochial school. The wisdom of the people in Sanford was that, with those 200 students, if the Sanford school district had to absorb them, it would be a much higher cost to the taxpayers. It is an investment and year after year that investment has been ratified by the town meeting in Sanford. Year after year because they see the value of allowing people the choice to make that commitment to education individually. They see the value of not adding those additional 200 students onto the budget. Thank you, Mr. President.

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

Senator **SULLIVAN**: Thank you Mr. President. Men and women of the Senate, there have been many times in my career of being up here in one Body or the other that we have had this. There are many communities that have now high school choice, such as Raymond and Arundel, which is in my district. They are all throughout the state. The courts have ruled each and every time that this is a public school choice. They cannot pay the tuition in the case of Raymond or Arundel to go to Cheverus. They cannot pay. They can go to any public school. That's what the Constitution allows. K-12 public school is free. When you begin to put State money into a parochial school you are showing preference to a religion. It is important. Each time that money leaves it is hurting your school system, based on the enrollment as of October 1<sup>st</sup> of the school year. That is what your enrollment is. That is how your funding formula is figured out. We have been through this over and over again. If you want a lawsuit, here it is. We've gone through it. Raymond's been the case at one point. I sort of wish my seatmate was here. He'd tell you a little bit about that. In fact, I've been very good today, Mr. President, because my seatmate is not here and I have no one to talk to. I would ask you once again to please honor the fact that we offer, and every community is demanded under the Constitution, to provide a free and public education. A parochial school does not follow, does not have to follow, the rules and regulations of public schools. They don't have to march to the same beat that all other public schools do. Myself, as a public school teacher, I can still say that for a few more days, and all other public school teachers, as far as the testing and anything else that comes about. We've already established that by law. I would ask you to vote in opposition to this. Thank you.

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

Senator **MASON**: Thank you Mr. President. I did not record myself yesterday so I'll have to have everyone hear me speak on the floor again. I've freshened it up this time, for everybody's information. I just want to talk about the bill for a second and then I am going to address the issue of the Constitutionality of what's been brought before us this morning. This is a simple opt in. This is not mandated. There will be no penalty if any town decides not to participate. This is a simple opt in. The bill is completely outside the State's tuition program. Any additional line item of the budget that the town approves is their responsibility. No funds will leave the public school to go to this program. This is strictly a new line item that the town can pursue if they wish to.

The issue has been brought up this morning about the Constitutionality of this program. I am going to preface this with, I am not a lawyer. That's been one of my favorite phrases that I've learned in my freshman session here in the Legislature. Those of us who are not lawyers can always put that disclaimer on things. Just in my little bit of research, there are two cases that seem to come up here when we talk about programs like this. The Joy vs State of Maine lawsuit and the Anderson vs Town of Durham lawsuit. Both of these cases had used as the basis for their decision the *Zelman vs Simmons Harris* case which found that these programs do not violate the Constitution. I'll read the majority opinion from former Chief Justice William Rehnquist. It says the incidental advancement of a religious mission or the perceived endorsement of a religious message is reasonably attributable to the individual aid recipients not the government whose role ends with the disbursement of benefits. That's the

basis that these two cases that were in our law courts used to say that this is not unconstitutional to implement these programs but at the same time the current law does not allow for it. That's what they found in these issues. To go along with the issue of unconstitutionality, we talk about the separation of church and State. Yes, that is in our Constitution and we need to make sure that we abide by that. The question needs to be raised. In our supplemental budget debates earlier this session we talked about the much needed funds that needed to go to our state hospitals. I have a hospital in my district, St. Mary's, that received a lot of the hospital reimbursement and they happen to be sponsored by the Catholic Church. The question should also be raised that why are there people that receive benefits from the State, the Department of Human Services, that can go to religious childcare? I don't know if any of you listen to the radio very often in the car, after you hear a couple of songs you might be able to repeat those lyrics in your head. If the issue here is indoctrination then I would suggest that if State money is going to a parochial daycare, they sing songs there and they might be of a religious nature. I think that this question needs to be raised. If people are going to oppose this bill based on the fact of separation of church and State then I would hope that the same people would look at this argument of why do we send State funds to other church sponsored organizations. I want to end this by saying that I support public schools. I will always put the interest of students first. For far too long in this state we have tried to pound the square peg into the round hole and it doesn't work for every child. Most of the time it does, but we need to make sure that every child receives the education that they need, not that we think they need. I hope that everybody will follow me on this report, that we accept the Minority Report. I think it's good for kids and I think it's good for the State. It's a piece of local control that I think is very reasonable. Thank you, Mr. President.

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

Senator **BARTLETT**: Thank you Mr. President. I think the Senator from York made an interesting point when he talked about his town and the money that is saved because some students go to a private school or a religious school. I think here lays the problem. The slippery slope that you get into with respect to the Constitution. You start with the addition of a municipality saying, "Look, since we can save money if people choose to go to a religious school, let's offer them a tax credit to do it. That's good for our bottom line. Then let's go to the next step of making sure that everybody in town knows about this tax credit for religious schools." You start getting down this slippery slope where the town has a monetary incentive to start promoting that tax credit and send people to religious schools as opposed to providing an education. You can even imagine some small towns, with a small number of students, at a town meeting, trying to work hard to get members of their community to send their kids to a religious school to get a tax credit in order to save the money of providing either tuition to another school or providing their own school. That's the problem. Once you head down this road, because of the monetary incentive that gets coupled with it, you pull yourself dangerously close to aggressively pushing students into a religious education in order to save money. I think that's part of the danger here. I would hope that we would recognize that danger. Let's not go down that road and oppose the current motion.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, it's surprising to hear that a community that the Senator from York, Senator Courtney, mentioned has excess money to be able to spend on an institution that is not their public institution. At least when I travel around my Senate district, I hear from people that they are struggling and in fact many have items in their budgets that they are exceeding the caps. They are asking for more money because they are not receiving enough money from us. As a result, they are having to increase their budgets. I always think it's amazing that we have these bills before us that can further dilute the money that goes to the public institutions. Maybe we can have this conversation at another time, when we are meeting our requirements or our goals of 55% K-12. We have not yet done that. Whether it's an opt in from a municipality or a tax credit or whatever it is that further dilutes, I get complaints all the time from my municipalities and from people who are in the municipalities who are seeing their tax rates increase because we're not meeting the 55% and, in addition, because they just don't have the number of students necessary to provide the economy scale that is necessary to meet requirements for K-12. It boggles my mind that we would be doing anything that would further erode or dilute the amount of money that we send for K-12 education. Maybe when we do a really good job that's when we need to have these conversations, but I think, given the circumstances, we absolutely shouldn't be going this way. I just want to say something about what the Senator from Androscoggin said about not every school meets the expectations. The fact of the matter is, I believe that our schools should be required to meet the needs of all students and understand that all students don't learn the same way. If they are not doing that, that's something we need to address. That's something we should be addressing within our public school education system. If that is their failure, then that's where we should be looking because there is no silver bullet. I truly believe, after all the studies that I've seen and everything that we've looked at, that why some schools are high performing and some schools are not high performing comes down to the educators. Those are the things we should be looking at; teacher development and continuing education for our educators. Those are the kinds of things that we need to be doing because it's the educators that inspire our young people to succeed. It's the educators that are the ones communicating with them. I would ask you to vote against the pending motion so we don't dilute further the funding that is needed for our local schools. Thank you.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I just want to rise briefly to comment on the excess money we supposedly have in the town of Sanford. I think it's pretty simple for the citizens of Sanford. If they didn't spend that money it would make it more likely that they would have to spend the \$2 million to possibly educate those children in their schools. As far as the financial piece, it's actually quite simple. It's a good investment. You know, this Legislature last year passed up the opportunity to have millions of dollars of

federal money because we allowed special interests to control the Race to the Top proposal. The way it was set up, the way the bill was passed, it basically put us out of competition for the Race to the Top money. We really need to look at education differently. If we think that education is successful today in this state then vote the status quo. We need some new ideas. We need some new opportunities. We need to think outside of the box. It's not about just throwing more money into it, it's about throwing energy into it. It's about coordinating with the families, bringing families into the educational process. We have to take a new approach from what we've been doing. With that, Mr. President, thank you.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm going to try to follow the good lead of the other Senator on the committee with bringing new stuff to the table. I'll bring a couple of new things also. One, when the public hearing happened on L.D. 250 there wasn't one municipality that came up demanding this. Not one. Their representation, the Maine Municipal Association, spoke against this saying, "We do not want this. We're not asking for this. We do not want this." Pretty convincing that this is really not being driven by our local communities. Who did come up and speak for L.D. 250? I have nothing against religious schools. There are great ones in my communities. The only people that did speak in favor of L.D. 250 were religious schools who are hurting for money. They need more money to keep their operations going. That's okay. I hope they can find more money in the ways that they have been trying to and come up with new ideas and new energy and engage parents and go after fundraising dollars and try to do things differently. Great, but just don't tap into the General Funds of our municipalities.

I was also listening. This is what's best for kids. Let's talk about what's best for kids. In our municipalities I would, if we could show a raising of hands, I know we can't, love to know in this Body how many municipalities have the same General Fund every single year. You don't. Let's say that your municipality passes this. In one year you can give \$1,000 to every student that goes to a religious school or parochial school. The next year your General Fund is way down and now you have to go from \$1,000 to \$10. Now that parent has to pull out of the religious school or a private school because they don't have the funding to actually pay for that student any more. I don't think that is what's best for kids. I think that would be a rollercoaster ride to disaster. I think moving kids from one school to another would be a bad situation for kids.

Finally, this is something I will repeat again. In our religious school and most of our private schools, unless they are a big 11 town academy, there is no oversight over anything that they do. Zero. Yes, this is coming out of the General Fund. Yes, it's on the municipality. Yes, it's not coming out of our General Purpose Aide. A lot of that money is the same money. That is money that helps them pay for the things they want to do in the municipalities comes from the State. The bottom line is that we will be hurting our municipalities by putting this out. I hope that we will reject this. One final comment, I hope that one day we can have a great conversation about the Race to the Top and all the reasons that we did not get the Race to the Top funds. To state that it was because of special interests and because we did not have, potentially, more choices in the state of Maine, I think, would be a

grave disservice as to why we did not get the Race to the Top funds. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first of all, I think we do a fairly good job here in the state of educating our students and I want to thank the people who are responsible for doing that good work. I also know that we can improve. This notion of a new approach and why don't we just start doing new things. After a lot of work and a lot of thought, it keeps coming back to one component which is that the difference in a child's education is the educators. If we would just monetarily start supporting our educators in professional development and stop trying to point to all these different things that we could do, we just don't give educators the added benefit of additional education and of time to reinvigorate themselves. Inspiring educators means inspiring youth. We don't do that. We keep wanting to point to every other thing. It always comes down to the educator and the various techniques that they employ to be able to communicate with students that have different learning issues. That's the difference. This notion of how we could improve things, let's do improve, but let's start promoting professional development and not give such a tiny little amount of money and time to our educators for that work, for that additional education, for that continuing education. We can really make a difference, but let's stop short changing those educators. When it comes to the Race to the Top, that was another scheme, in my opinion, to further dilute our public education. I don't know about all of you, I get a lot of complaints already about doing that in my Senate district. They don't want us to dilute the funds to public education because they don't feel like they are getting enough as it is. I think we should really take a better examination of this because as a former member of the Education and Cultural Affairs Committee it kept coming back. The high performing schools. It keeps coming back to the same sort of focus, which is our educators. Maybe we should be investing in our educators and allowing them the professional development that they need and continuing education that they need in order to really continue to inspire achievement in our young people. Thank you very much, Mr. President.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I do need to respond to a few things that were said because I cannot allow it go on the record of this Body without being corrected. A fellow Senator mentioned that I said that public schools are not up to par or that I mentioned that there was a failure of some sort. I never said that. What I said, to correct the record, was that not every school can meet every child's needs. That's a fact. I would bring up the fact that I mentioned in my testimony yesterday that there about 1,000 kids in Androscoggin County that went to private religious schools. I went to one of those schools. I can tell you first hand the information that I'm going to convey to this Body today. There is a large amount of those kids, I wasn't one of them by the way, that know that they are going to serve their church or their faith when they graduate from high school, whether it be as a pastor, a rabbi, a priest, a missionary, or whatever it be. That's what they

are going to do and they know it. They want to go to a school that provides them the opportunity to study and get ahead of the task so that they can do what they feel that they need to do. Based on the argument that we've heard before about separation of church and State, public schools cannot meet that need. Plain and simple. Just a fact. I would say that in response to what was said earlier. I would also say that \$10 is better than zero. That's also a fact. That's where we can go, teetering right on the edge for some of these parents who want to send their kids to school. Some of these parents that send these kids to these Christian schools clean the toilets at night so they can keep their kids in school. Let's extend some relief to these families. Let's help them get the education their children need. Let's pass this bill. Thank you very much, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. I am well aware that my good friend from Androscoggin, Senator Mason, went to parochial school and I wasn't aware of the number of people who were later going on to a career in religion, although I suspect there were very few of your classmates who have gone on to be rabbis, Senator, but I might be wrong about that.

It seems to me there are two reasons to vote against this bill. As I have heard many of my colleagues state, Mr. President, if you are concerned about the dilution of funding to public education and feel that this bill impacts that, that's not my reason. I am a co-sponsor, with the good Senator from Androscoggin, for a charter school bill, the public charter school bill. If you believe that then you should vote against this bill. If you share with me your concern about subsidizing religious schools, I also urge you to vote against this bill. Only if you have no concerns about the dilution of public education and if you have no concerns about spending taxpayer money to send kids to Jewish schools, Catholic schools, Muslim schools, or whatever it is, you should vote for this bill. Thank you.

**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 can stand here and say I am a proud father of two kids that went to a Catholic school and was extremely proud that one of them was the valedictorian of their class. I know that out of the top ten almost every year probably 50% of them come from a Catholic school. I support our school whole heartedly from the standpoint of my title. I also understand that our community has wrestled on many occasions on kicking in \$16,000 to bus our kids, which they begrudgingly do. They actually paid for books at one time and other things that they agreed to do voluntarily. I do know that my community and other communities around, the financial burdens on their citizens, are getting to the point where they are giving less and less help to the Catholic school. The one thing that I will say about the school that my kids went to, my co-workers also sent their kids to the school. The problem that they had was that my kids were, I would say, fairly exceptional from the educational aspect, but my friends had a couple of kids that had special needs and it's awful funny that their kids ended up leaving the Catholic school because they could not provide the services for special needs. Other member's kids stayed there, but the

municipality or the school district had to pay to bus them to the school to get the special needs stuff and send them back. Therefore, the Catholic school actually got to basically cherry pick the students that they wanted, not necessarily on religious beliefs but on the beliefs that they may have had a little bit better education there. When it comes to doing the whole aspect of education where does the cost come from? It comes from the taxpayers of the state of Maine and the communities. I just feel compelled. Yes, I still support my school. Absolutely. Will I continue to support my school? Absolutely. For me to take my tax dollars that should be going to education, especially the special education which the federal government has underfunded for years, and shame on them for that because if they did probably the educational system in the United States of America and in Maine wouldn't be in the problems that we're in, I will not support this because I do not want to mix my tax dollars going to private education. Thank you, Mr. President.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#147)**

**YEAS:** Senators: COLLINS, COURTNEY, HASTINGS, LANGLEY, MARTIN, MASON, PLOWMAN, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, FARNHAM, GERZOFISKY, HILL, HOBBS, JACKSON, KATZ, MCCORMICK, PATRICK, RECTOR, SAVIELLO, SCHNEIDER, SULLIVAN, TRAHAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

**EXCUSED:** Senators: DIAMOND, GOODALL

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator LANGLEY of Hancock to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/1/11) Assigned matter:

**HOUSE REPORTS** - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Facilitate Local Food Production"

H.P. 289 L.D. 363

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-346)** (12 members)

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

Tabled - June 1, 2011, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **SHERMAN** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, May 31, 2011, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 1, 2011, Reports **READ**.)

Senator **SHERMAN** of Aroostook requested and received leave of the Senate to withdraw his motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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

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Senate at Ease.

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Regarding Public Health Infrastructure" H.P. 103 L.D. 121

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

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

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

**READ ONCE**.

Committee Amendment "A" (H-459) **READ** and **ADOPTED**, in concurrence.

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



The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Increase Health Care Quality through the Promotion of Health Information Exchange and the Protection of Patient Privacy"

H.P. 977 L.D. 1331

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

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

Report **READ.**

On motion by Senator **KATZ** of Kennebec, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**, in concurrence.

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

**COMMUNICATIONS**

The Following Communication: S.C. 411

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

June 1, 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. 782 An Act To Expand Competitive Bidding for Energy Service Contracts with Schools

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. 412

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES**

June 1, 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 Health and Human Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 582 An Act To Amend the Maine Certificate of Need Act of 2002

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

Sincerely,

S/Sen. Earle L. McCormick  
Senate Chair

S/Rep. Meredith N. Strang Burgess  
House Chair

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator MASON for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Regarding Regulation of Emergency Medical Services"

S.P. 467 L.D. 1489

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-223)**.

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

**READ ONCE**.

Committee Amendment "A" (S-223) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Concerning Sex Offender Registry Information"  
H.P. 963 L.D. 1317

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-466)**.

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

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

**READ ONCE**.

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

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

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The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Property Deposited with Museums and Historical Societies"

H.P. 772 L.D. 1038

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-465)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-465)**.

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

**READ ONCE**.

Committee Amendment "A" (H-465) **READ** and **ADOPTED**, in concurrence.

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator THIBODEAU for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Laws Governing the Activity of Certain Nonprofit Corporations"  
S.P. 396 L.D. 1275

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-225)**.

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

**READ ONCE**.

Committee Amendment "A" (S-225) **READ** and **ADOPTED**.

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

Sent down forthwith for concurrence.

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

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On motion by Senator COURTNEY of York, **ADJOURNED** to Friday, June 3, 2011, at 10:00 in the morning.