

MAINE STATE LEGISLATURE

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

In Senate Chamber
Wednesday
June 15, 2011

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

Prayer by Senator Thomas B. Saviello, Franklin County.

SENATOR SAVIELLO: Let us pray. Lord, bless the leaders of our land that we may a people at peace among ourselves and a blessing to other nations on earth. Lord, keep the state under Your care. To all who have executive authority and to all who have administrative authority, grant wisdom and grace in exercise of their duties. Give grace to Your servants, O Lord. To those who make our laws, give courage, wisdom, foresight, and particularly patience to provide the needs of all our people and fulfill our obligations in the community of nations. Give grace to Your servants, O Lord. To the judges and officers of our courts, give understanding and integrity, that human rights may be safeguarded and justice served. Grant grace to Your servants, O Lord. Teach our people to rely on Your strength and to accept their responsibilities to their fellow citizens and help us make decisions for the wellbeing of our state. Lord, let us be an instrument of Your peace. Where there is hatred, let us so love. Where there is injury, pardon. Where there is doubt, faith. Where there is despair, hope. Where there is darkness, light. Where there is sadness, joy. Lord, grant that I may seek to comfort than to be comforted, to understand than to be understood, and to love than to be loved. As we prepare to leave this session, may the Lord bless and keep all of you. May His face shine upon you and have mercy. May He turn his countenance on you and give you peace. May the Lord bless all of you. Amen.

Pledge of Allegiance led by Senator Richard W. Rosen of Hancock County.

Reading of the Journal of Tuesday, June 14, 2011.

Doctor of the day, Anne Jones-Leeson, DO of Hallowell.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from 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
(C "A" S-211)

Report "A" - Ought Not to Pass (6 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "A" (S-211) (6 members)

In Senate, June 3, 2011, Report "B", **OUGHT TO PASS AS AMENDED, READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-211)**.

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

On motion by Senator **WHITTEMORE** of Somerset, the Senate **RECEDED and CONCURRED.**

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting"

H.P. 176 L.D. 199

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-385) (7 members)

Minority - Ought Not to Pass (6 members)

In House, June 6, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385)**.

In Senate, June 13, 2011, the Minority **OUGHT NOT TO PASS** Report **READ and ACCEPTED, in NON-CONCURRENCE.**

Comes from the House, Bill **COMMITTED** to the Committee on **VETERANS AND LEGAL AFFAIRS, in NON-CONCURRENCE.**

Senator **FARNHAM** of Penobscot moved the Senate **RECEDE and CONCUR.**

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#250)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, JACKSON, KATZ, LANGLEY, PATRICK, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: GOODALL

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **FARNHAM** of Penobscot to **RECEDE** and **CONCUR, FAILED**.

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

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Young Children from Sex Offenses"

S.P. 357 L.D. 1182
(C "A" S-295)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-295)** (4 members)

In Senate, June 13, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-295)**.

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

On motion by Senator **MASON** of Androscoggin, the Senate **INSISTED**.

Sent down for concurrence.

ORDERS

Joint Resolution

On motion by Senator **COURTNEY** of York, under unanimous consent on behalf of President **RAYE** of Washington (Cosponsored by Speaker **NUTTING** of Oakland and Senators: **COURTNEY** of York, **HASTINGS** of Oxford, **JACKSON** of Aroostook, **KATZ** of Kennebec, **LANGLEY** of Hancock, **MASON** of Androscoggin, **McCORMICK** of Kennebec, **PLOWMAN** of Penobscot, **RECTOR** of Knox, **SAVIELLO** of Franklin, **SHERMAN** of Aroostook, **SNOWE-MELLO** of Androscoggin, **THIBODEAU** of Waldo, **THOMAS** of Somerset, **TRAHAN** of Lincoln, **WHITTEMORE** of Somerset, Representatives: **BICKFORD** of Auburn, **CELLI** of Brewer, **CLARKE** of Bath, **COTTA** of China, **CURTIS** of Madison, **DAVIS** of Sangerville, **ESPLING** of New Gloucester, **FITTS** of Pittsfield, **FITZPATRICK** of Houlton, **FOSEL** of Alna, **HAMPER** of Oxford, **HANLEY** of Gardiner, **JOHNSON** of Greenville, **McCLELLAN** of Raymond, **McFADDEN** of Dennysville, **NASS** of Acton, **PRESCOTT** of Topsham, **RICHARDSON** of Warren, **SANDERSON** of Chelsea, **SARTY** of Denmark, **SOCTOMAH** of the Passamaquoddy Tribe, **STRANG BURGESS** of Cumberland, **TURNER** of Burlington, **WATERHOUSE** of Bridgton, **WEAVER** of York, **WILLETTE** of Mapleton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.), the following Joint Resolution:

S.P. 519

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES SECRETARY OF THE INTERIOR AND THE UNITED STATES CONGRESS TO OPPOSE THE CREATION OF A NATIONAL PARK IN MAINE'S NORTH WOODS

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States, the United States Secretary of the Interior and the United States Congress as follows:

WHEREAS, Maine residents and visitors enjoy the privilege of using large tracts of private land in the north woods for recreational uses such as snowmobiling, hunting, hiking, fishing, bird watching and other activities; and

WHEREAS, the future of that private land is of great importance to the people of Maine and their outdoor heritage; and

WHEREAS, the Maine Department of Inland Fisheries and Wildlife and many of the large landowners have entered or are entering into cooperative wildlife management agreements that ensure the future of deer yards and other critical wildlife habitat in the north woods; and

WHEREAS, state agencies, private landowners and nonprofit organizations are cooperating in an unprecedented effort to secure permanent rights of access to the north woods and keep valuable recreational property and natural habitat undeveloped through conservation easements; and

ENACTORS

WHEREAS, federal ownership or control of the north woods would create many problems including limitations on timber supply to the forest products industry, reduced recreational access and loss of local and state control of these areas; now, therefore, be it

RESOLVED: That We, your Memorialists, oppose the creation of a national park in Maine's north woods and request that the President of the United States and Secretary of the Interior Kenneth Salazar deny requests to conduct a feasibility study concerning establishing a national park in Maine's north woods; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the Secretary of the Interior, Kenneth Salazar, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

READ.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#251)

YEAS: Senators: ALFOND, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFKY, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: BARTLETT, DILL, WOODBURY

EXCUSED: Senator: GOODALL

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being excused, **ADOPTED.**

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

Act

An Act To Change the Campaign Contribution Limits
S.P. 260 L.D. 856
(S "A" S-220)

On motion by Senator **PLOWMAN** of Penobscot, 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 SENATE AMENDMENT "A" (S-220).**

On further motion by same Senator, Senate Amendment "B" (S-297) **READ.**

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, this amendment was brought to me by a member of the Portland delegation. The effective date of this legislation would be 90 days from the day we adjourn, which would put the date right smack in the middle of a mayoral campaign in Portland. Therefore, the request was made that we push this off until January 1st for a start date in order to make sure that the playing field doesn't change in the middle of an election cycle. That's the reason I brought this amendment forward and I would appreciate your support. Thank you, Mr. President.

On motion by Senator **PLOWMAN** of Penobscot, Senate Amendment "B" (S-297) **ADOPTED.**

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#252)

YEAS: Senators: COLLINS, DIAMOND, HASTINGS, KATZ, LANGLEY, MARTIN, MCCORMICK, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DILL, FARNHAM, GERZOFKY, HILL, HOBBS, JACKSON, MASON, PATRICK, PLOWMAN, SCHNEIDER, WOODBURY

EXCUSED: Senator: GOODALL

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-220) AND "B" (S-297)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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 (5/17/11) Assigned matter:

SENATE REPORT - from the Committee on **VETERANS AND LEGAL AFFAIRS**, pursuant to the Maine Revised Statutes, Title 1, section 1009, on Bill "An Act To Improve the Administration of the Legislative Ethics Laws"

S.P. 350 L.D. 1150

Report - Ought to Pass

Tabled - May 17, 2011, by Senator **ALFOND** of Cumberland

Pending - ACCEPTANCE OF REPORT

(In Senate, May 17, 2011, Report **READ**.)

On motion by Senator **HOBBS** of York, Bill and accompanying papers **COMMITTED** to the Committee on **VETERANS AND LEGAL AFFAIRS**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/9/11) Assigned matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow a Student Attending Private School Access to Public School Cocurricular, Interscholastic and Extracurricular Activities"

H.P. 662 L.D. 903

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-490) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - June 10, 2011, by Senator **SCHNEIDER** of Penobscot

Pending - motion by Senator **MASON** of Androscoggin to **ADOPT** Senate Amendment "A" (S-293) to Committee Amendment "A" (H-490), in **NON-CONCURRENCE**

(In House, June 6, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**.)

(In Senate, June 10, 2011, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)** Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (H-490) **READ**. On motion by Senator **MASON** of Androscoggin, Senate Amendment "A" (S-293) to Committee Amendment "A" (H-490) **READ**.)

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

Senator **MASON:** Thank you Mr. President. I just want to be clear. There was a drafting error on the original amendment. This first amendment will make the bill permissive, allows the school districts to decide for themselves. I'll have another amendment after which will do the other part of what I want to do with this bill. 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 will be very quick. Drafting error or no drafting error, my concern now, it wasn't before, still is the slippery slope of this bill. I'm sure, for you coming back, we'll see another bill in the next session that removes the 30 limit on students on private and religious schools. That's disappointing because we know kind of where this bill is going. I would urge everyone to vote against this bill. Thank you.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, may I pose a question?

THE PRESIDENT: The Senator may pose her question.

Senator **SULLIVAN:** Thank you Mr. President. I'm curious. I understand the word permissive, but how does that play out in the courts? Within my community we have some schools and we have, in the past, had to take kids from the public school that might not have been as good in try-outs and not have them play in their public school because somebody from a parochial school might have been better. I have some real concerns that if we have to bring people in from other schools. The word permissive is opening ourselves up for a lawsuit. Why should a student that's going to a public school, especially at the middle school level, that should be gaining skills, be bumped. It's not all about winning. It's about really gaining skills and building the body to be able to play whatever sport you're trying to play. Children that are enrolled in the middle school, or children enrolled in the public school, would give that up. We've had it happen now and that's my concern. Then we begin to get into that. They have the right.

You have so many people. This is going to court and we use the pawns. I have a real problem with this. Our public school children come last if they don't happen to be as good as somebody else. I understand the bill; I just think it's unfair to our public school students. Thank you. I will be voting in opposition to this.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I also have a question, if I may.

THE PRESIDENT: The Senator may pose her question.

Senator **DILL:** Thank you Mr. President. I'm just curious, what guidance are we giving the principals in making this decision? We're passing a law that says students in religious schools less than 30 can participate at public schools and we're saying it's up to the principal. The amendment allows the principal of the school to withhold approval of participation. I just feel, as a legislative Body, we should either have rules or some policy around how this principal of this school is to make the decision. What sort of things is he or she going to take into account when making this decision?

THE PRESIDENT: The Senator from Cumberland, Senator Dill poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Mr. President. That is the policy. If they want to withhold then they can. If they don't then they don't have to. I think we're muddying something up that doesn't need to be muddied. It's quite simple. Thank you.

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

Senator **DILL:** Thank you Mr. President. Could the principal withhold or refuse on the basis of what type of religious school there is? For instance, if there is a Muslim school and the principal has a concern about that. We're not offering any guidance? I'm really concerned with this. It's really exposing our principals to very difficult decisions without any guidance from us as to what standards apply.

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

Senator **MASON:** Thank you Mr. President. I believe that was a question, Mr. President. I will respond. I would note that public schools have to abide by all civil rights laws that we have in the state. I don't think that they would be able to discriminate that way and they would have to continue to abide by civil rights laws. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I think that this is exposing our local school

systems to humungous problems and liabilities. It's to skirt a mandate. It's to skirt the financial implications to our schools. I think that's wrong. This is not the way we should be passing policy. I think it's disingenuous and that our school systems deserve better than this because, clearly, if some student is not allowed to participate from a religious school, that is an opening for a lawsuit based on object to a religious affiliation. That is a massive problem for our school systems. This is just not the way we should be moving forward and I would urge you to oppose the pending motion, to stick up for our local schools, and that this will clearly take us down a very, very rocky path.

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

Senator **WOODBURY:** Thank you Mr. President. Senate colleagues, I'm also a bit perplexed by the permissive aspect that is being added to this bill. I generally comfortable with the idea that students who lived in a school district with a public school should have the right to participate in the sports and curricular activities of the place they live. They are property tax payers and so forth. As soon as we make this a permissive standard, where some districts can decide do it and some can decide not to do it, that worries me a whole lot more than the original bill. I'm much less convinced that it's the right direction for our state to take. 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 guess this is the morning for people being perplexed in the State Senate because I'm perplexed too. I just do not understand the controversy over this bill. I think of two kids. Sam, who lives at 12 Elm Street, and Ed, his best friend, who lives at 14 Elm Street. Sam goes to public school and Ed goes to a private school. By the way, it doesn't have to be a parochial school; it could be a private school. This doesn't just apply to sports. What's wrong with letting Ed be a member of the Latin Club or the French Club at the high school? Their parents are both property tax payers. They both live there. What's wrong with letting them compete for a spot on the basketball team? That's all this bill does. The good Senator from Androscoggin offered this amendment, as I understand it, to try to be more inclusive and say that the schools don't have to do it. I think this comes under the category of no good deed goes unpunished. Kids ought to be treated equally and not pitted one against the other just because one happens to go to a public school and the other one, also a child of a taxpayer, happens to go to another. Thank you.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, first, Mr. President, I'd like to apologize to you. I realize I asked to pose a question and I went on and started answering my own question as I thought about it. I do apologize for that. With the Senator from Kennebec, Senator Katz, I also live on Elm Street and my son lives 18, I think you said 14 and 16. My son goes to public school and he's pretty good at soccer. It's the only sport he was really pretty good at. There is one more

place. Well there are a couple of things that happened first. The coaches in the public school take a very careful look. If you receive a detention or if you're not behaving within the school, there is a set of rules and laws that the coach follows for that. Also, my son has carried all the rules and regulations of the school, but the kid at 16 Elm Street that goes to private school beats my kid out and he hasn't had to play by the same rules. If there's a space for it I'm all for it. In our community one of the things that started happening, because they were afraid of lawsuits, is that we had public school kids that did not have the place. We pay the stipends for the coaches. They didn't have to follow the same rules because no one could follow them within the school. Like in Little League, where there are coaches, there are Dads and Mothers, if you go on-line any place you find parents are more obnoxious than kids about who's going to play and all that. I see some people smiling here. You've seen it. All of a sudden these people, because they are taxpayers, begin to really harass the coaches who are following a certain set of rules set out by the Maine Principal's Association and all of that. There is more than just the fact of how this would be nice for kids to play. I go with that. I understand that. I understand trying to make kids, take a kid where they are at and develop them. I'm all for that. In fact, as you know, for 28 years I've been for that. At what point do the kids in public schools, that keep their nose clean and want to take part in it, and there's not enough space, should those kids be left out? That's what you're saying. You're saying those kids in private schools don't have to follow the same rules. In many cases, if you can't get to a basketball court until the second practice, you're there until 5, and in our schools you have to do a study hall. You can't just go out and hang out on the streets. Sometimes you have to get out of school early to travel. There is a lot that goes on in teaching school than just saying that you think this sounds good. You are opening up lawsuits against the public schools if you have some kids in and some kids not. There is a problem. I would not hurt a child, but you have to be practical about this too. They are not kept from being part of any recreation, city recreation. Teams, travel teams, and all of that, all kids can play regardless of where they go to school. These are school functions. These are kids, that if they misbehave they are kicked off, from the public schools under the public set of laws. Public school laws. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I'm so glad the Senator from Kennebec, Senator Katz, asked the question he did; what's wrong with this? First of all, I think that the Senator who opposed this legislation's heart is in the right place. Unfortunately, it's more complicated than one might think. It's more complicated, especially now. It's even more complicated. It accentuated the complication by making it permissive because if you are a principal in a school and you allow one child, and an attorney, I think, would know this, to come into a program and then there is another child who wants to go into the same program but you deny that second child an opportunity to get in the program, and that child has a religious affiliation with a religious school, I think anybody would know, in the legal profession, that this is going to be a significant legal problem because they would be able to bring up a grounds on that legal issue. You can't discriminate based on religious affiliation. I think that this is not simple. That's why we're

standing and we're being very concerned about this. In addition, and the one thing I mentioned before, when somebody attends a public school there is public school spirit. Everybody knows that. If you attend whatever your school is, whether it's a religious school or a public school or a private school, those schools have their own sense of community spirit that is within that school because you attend that school. You root for those people going to that school. When you change the direction of this and you are saying that down the street, because they are taxpayers and they've chosen to send their child to whatever, either a religious or private school, now that child can come and actually displace a child from a team because there are only a certain number of team members allowed on certain teams. For example, basketball or debate teams, even. Often there are maximums that they can take on these teams. You could be displacing a child that's attending a public school and replacing that child with somebody who is coming in from a private or religious institution. On top of that, you layer the issue of if it really is permissive, which I would argue that it is not permissive at all. The reason it's not permissive is that there are certain rules and regulations and laws under, especially, our Constitution that would, essentially, prohibit a principal from being able to say no to a child. I think that this is absolutely an affront to our public schools. I think it's a mistake. I think we will hear from parents. If we pass this we will hear from parents in our districts that this is unfair. It will create tensions and friction along with the complications that will cause and the lawsuits, potentially lawsuits, that will be down the line. Thank you very much.

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

Senator **WOODBURY:** Thank you Mr. President. I, too, was motivated to rise a second time by the comments by the Senator from Kennebec, Senator Katz. The reason is that what we are debating right now is the Senate Amendment, not the core bill. The Senator from Kennebec made a superb argument for why a child at 12 Elm Street and 14 Elm Street should be able to both participate in the activities that are provided through the school system in their community. I get that argument. I think it's a superb argument. The amendment, however, what we are voting on right now, is actually not allowing that. It is allowing a principal to deny that right. It's for that reason that I think we should oppose this amendment and turn to the bill and evaluate whether the bill is the correct thing to do. Thank you.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wanted to stand to address a concern brought up about a student being knocked out of competition on a team. If you apply that principle, and all I've learned as an athlete and watching things like Little League, that when a young lady comes forward and wants to play on the Little League team you could use that same argument. By allowing her to try out for the Little League team you are knocking another boy off the team. I think that might be a dangerous road to follow down. It has big potholes. I think that using that argument that somehow allowing a child that lives in the community to compete for a team is somehow unfair to another child if they are a better athlete. Secondly, my personal experience about my hometown, where

we have a church, a Baptist Church, that has a very large athletic area for people to recreate. They open their doors to the public. People come, they use the basketball court. There is no interaction between church and State. This road goes both ways. When we start to say you can't come in our door, the other side says you can't come in our door. What I think we should do is we should try to encourage what I believe extracurricular activities are all about. That is instilling leadership skills, instilling right and wrong, how to compete, how to win and how to lose, and we shouldn't put labels on individual kids. What we should do is we should embrace every child as an individual and let them go to their potential. I understand your concerns around religion, but I think this issue is more than resolved by the local communities and schools and churches. Allow them to work out their agreements and if we need to come back and revisit this in the future we will. I'll tell you right now, this is a dangerous road we're going down if we're going to start singling out people from private or religious schools and saying somehow they are off limits to our teams. Thank you.

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 Mason.

Senator **MASON:** Thank you Mr. President. I'd just like the chance to mention a couple of things. The Senator from Penobscot, Senator Schneider, brought up the fact that we might be going down a risky road if we start denying kids access to cocurricular sports, or whatever you want to say. We're doing it right now. I could parade children through this Chamber all day long that have been denied access to the Latin Club or to the baseball team or to the hockey team. I could go on forever about it. We're doing it right now. If this bill is going to make this unconstitutional, well man alive, I think we're being quite unconstitutional right now. The second note, for people in this Chamber who are so concerned about fiscal notes and the appropriateness of the figures that we see. This bill has no fiscal note. I ran a hockey team. Every year I had about 60 kids come and try out for the hockey team. I knew that at the end of it I would have 22 to 24 spots on the roster and that was it. I needed 24 jerseys. I needed 24 shin pads. I needed 24 sets of skates. I knew every year what I had. If the public school is not appropriately allocated the amount of money that they need then there might be a fiscal note, but I don't think that makes very much sense because I have a lot more respect for our budgeting process, I think. The other thing that I'd like to bring up here is that we have the fact that the coaches look at the participants in these programs and they make sure that these kids are following the rules. Well, the whole bill addresses that. It addresses the fact that they have to abide by standards that are being set by the school. They have to comply with the same physical examination, immunization, insurance, age, and semester eligibility requirements, which include grades. They have to abide by the same rules. I would also submit to this Body that homeschoolers can already participate in the same activities that this bill is trying to allow private or religious schools, because those words seem to be interchangeable. They can already participate in these. As for the aspect of community, I could bring you to Lisbon High School and show you homeschoolers who are

captains of their sports teams. I didn't see their jersey cut out on the wall, being peppered with rotten vegetables or whatever you want to do. I just didn't see the fact that they were ruining some sort of sense of community. This is about kids. Let's let kids be kids. Let's let them learn French. Let's let them learn Latin. Let's let them learn how to debate. Let's let them learn how to play sports. This is about children. I hope that you will all vote to accept this amendment and the following. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. Regardless of the merits of the original bill, I just want to reiterate what this proposal does is say that a student can be denied access. It seems to me, students who go to private schools with 30 or fewer students can participate or they can't. It is simply unfair to have an arbitrary decision being made about who can and who can't. If we look at Elm Street, which seems to be our favorite place. If you are at 11 Elm Street and you are a good football player, you are a big guy, you get to play. The principal sees that as a great opportunity. Then you go two doors up, maybe at 13 Elm Street. You have somebody who is a musician. Gee, you know, we think that our band is big enough. We don't want to allow you to come in. That's the problem. Either you allow everybody to participate or no one to participate. I think we're really opening up a can of worms if we're going to let principals arbitrarily make those decisions. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason to Adopt Senate Amendment "A" (S-293) to Committee Amendment "A" (H-490), in Non-Concurrence. 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 (#253)

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

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

EXCUSED: Senator: GOODALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ADOPT** Senate Amendment "A" (S-293) to Committee Amendment "A" (H-490), **PREVAILED.**

On motion by Senator **MASON** of Androscoggin, Senate Amendment "B" (S-307) to Committee Amendment "A" (H-490) **READ.**

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

Senator **MASON:** Thank you Mr. President. This amendment quite simply strips the 30 student amendment.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I feel like we're in Groundhog Day. I really am unsure of why this is being brought forth. I thought the idea was that there were some certain schools in Maine, very small schools, that wanted to go to their local schools and do extracurricular and cocurricular activities. What this is now bringing in some giants here in the state of Maine, giants like Cheverus and Thornton and other different schools. I just don't understand. I don't understand why we're opening it up to schools of any size. I would ask the Body to oppose this. I don't think this is the right way to go. Thank you very much, Mr. President.

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

Senator **MASON:** Thank you Mr. President. I'd just like to point out that the schools that were previously mentioned are members of the Maine Principal's Association. Therefore, their students wouldn't be allowed to compete in their local public school sports. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. The concern I have about opening this up to schools that have more than 30 students is that you run into sort of a Title 9 problem, potentially, through this. Title 9 requires that you provide parity in your sports programs to men and to women. The concern that I have is that a private school that doesn't receive federal funding could choose not to have certain women's sports and simply say that they can go to the public school for those. To me, that is potentially a huge problem. Keeping the football team and boy's soccer team, because those fill the stadiums, but not having the field hockey team or the girl's lacrosse team or whatever it is. I think this really opens up, potentially, a huge problem that may need to be addressed down the road. I think it's a different argument when you're dealing with schools with fewer than 30 kids who can't field sports teams. We're talking about large private schools that can and do have a wide range of sports teams. They shouldn't be able to cherry pick and simply say to some group of students, "Sorry, go to the public schools. We don't want to serve you here." 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 thought there was a drafting error. Now I don't understand that. It doesn't seem like there was a drafting error. What are you referring to? I guess I'm confused about that. I'll pose that, if I may, through the Chair to anyone who may answer. I'd also just like to state that earlier the Senator from Lincoln, Senator Trahan, really compared a lot of apples to oranges in that he was comparing opening the church doors to allowing community members to come in and participate with requiring a school to take students for the extracurricular and cocurricular activities when their parents have chosen to send them to a different school. Those are very different things. I guess I'll have two questions, if I may, Mr. President, through the Chair to anybody who may answer. That is; under current law, are private institutions, religious or otherwise, required to take students into their extracurricular and cocurricular activities under Maine law?

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 Androscoggin, Senator Mason.

Senator **MASON:** Thank you Mr. President. There was a drafting error. The drafting error, my intention in the first amendment, was to include the striping of the 30 student provision. That's why you have the amendment in front of you that we're debating right now. Second of all, I can speak from experience. I can't speak about statute. I can tell you that the private school that I attended welcomed any student if they wished to participate in any of our activities.

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 pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason to Adopt Senate Amendment "B" (S-307) to Committee Amendment "A" (H-490). 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 (#254)

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

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

EXCUSED: Senator: GOODALL

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ADOPT** Senate Amendment "B" (S-307) to Committee Amendment "A" (H-490), **PREVAILED**.

Committee Amendment "A" (H-490) as Amended by Senate Amendments "A" (S-293) and "B" (S-307) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490) AS AMENDED BY SENATE AMENDMENTS "A" (S-293) AND "B" (S-307) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/13/11) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting
H.P. 387 L.D. 494
(C "A" H-76)

Tabled - June 13, 2011, by Senator **ALFOND** of Cumberland

Pending - **FURTHER CONSIDERATION**

(In Senate, April 26, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76)**, in concurrence.)

(In House, June 10, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76) AND HOUSE AMENDMENT "B" (H-565)**, in **NON-CONCURRENCE**.)

On motion by Senator **THOMAS** of Somerset, the Senate **RECEDED** and **CONCURRED**.

The Chair laid before the Senate the following Tabled and Later (6/14/11) Assigned matter:

Bill "An Act To Reduce Energy Prices for Maine Consumers"
S.P. 501 L.D. 1570
(C "A" S-272)

Tabled - June 14, 2011, by Senator **THIBODEAU** of Waldo

Pending - **ENACTMENT**, in concurrence

(In Senate, June 9, 2011, **PASSED TO BE ENACTED**, in concurrence.)

(In Senate, June 14, 2011, **RECALLED** from the Governor's Desk pursuant to Joint Order (S.P. 518).

Senate at Ease.

Senate called to order by the President.

On motion by Senator **THIBODEAU** of Waldo, 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-272)**.

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-272).

On further motion by same Senator, Senate Amendment "A" (S-310) to Committee Amendment "A" (S-272) **READ**.

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

Senator **THIBODEAU**: Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment, simply put, in this Chamber we are all familiar with the concept of Pine Tree Zones. In Pine Tree Zones there is an exemption already in statute for the business owners to not have to meet an RPS requirement, which is a Renewable Portfolio Standard. When the Pine Tree Zones were set up the Legislature saw the wisdom in that because we want to allow these companies and encourage these companies to employ people. By providing the lowest possible price for the energy, that's an important tool for attracting businesses to the state of Maine. This amendment simply allows the consumer, the employer that is actually reaping the benefit of the lower price, to ask for the waiver rather than allowing or having the competitive energy provider be the entity that makes that request. I hope everybody can be comfortable with this. I hope they understand. Thank you.

On motion by Senator **THIBODEAU** of Waldo, Senate Amendment "A" (S-310) to Committee Amendment "A" (S-272) **ADOPTED**.

Committee Amendment "A" (S-272) as Amended by Senate Amendment "A" (S-310) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-272) AS AMENDED BY SENATE AMENDMENT "A" (S-310) thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/14/11) Assigned matter:

HOUSE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Medical Use of Marijuana Act To Protect Patient Privacy"
H.P. 951 L.D. 1296

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-615)**

Tabled - June 14, 2011, by Senator **COURTNEY** of York

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

(In House, June 14, 2011, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615).**)

(In Senate, June 14, 2011, Report **READ.**)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-615) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

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

PAPERS FROM THE HOUSE

Joint Resolution

The following Joint Resolution:

H.P. 1179

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO EXPRESS DISAPPROVAL OF CORN ETHANOL AS A FUEL ADDITIVE AND TO URGE THE ALLOWANCE OF ALTERNATIVES TO CORN ETHANOL AS A FUEL ADDITIVE

WE, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, federal laws and regulations, including the Clean Air Act, the Energy Policy Act of 2005 and the national renewable fuel standard program created in 2006, have contributed to changes in fuel standards, such as the removal of methyl tertiary butyl ether, or MTBE, as an oxygenate in fuel, leading to the use of ethanol as a replacement for MTBE; and

WHEREAS, only reformulated gasoline is now available for purchase at public fuel pumps and typically contains a 10% corn ethanol blend, known as E10, and there are many gasoline engines, particularly those in boats, aircraft and older engines, in a variety of uses that are fueled by gasoline designed for motor vehicles, such as E10, and that will not function properly on E10; and

WHEREAS, there are many gasoline engines in Maine that are used seasonally and are at great risk of damage from this corn ethanol fuel if, as is common practice, the unused fuel is left in the tank for extended periods, since corn ethanol is a solvent and damages rubber fuel lines and gaskets as well as fiberglass fuel tanks and has a definite shorter shelf life unless treated properly, going bad after a few months and leaving a gas tank full of hazardous wastes; and

WHEREAS, these engines, and in particular boat engines using the corn ethanol fuel, are affected by significant amounts of water becoming trapped in the fuel tank, which separates the ethanol from the reformulated gasoline and causes the engine to stall or fail, sometimes severely damaging the engine and requiring costly repairs or replacement and also leading to potentially life-threatening situations; and

WHEREAS, aircraft are unable to use corn ethanol as it does not function as a motor fuel at high altitudes and, due to this and the previously mentioned federal laws and programs, the only lead-free motor fuel widely available to the general public for smaller engines is E10; and

WHEREAS, the production of corn ethanol is wasteful of fossil fuel resources and does not increase energy security and with this production, which uses 10% of the totally arable land in the United States, we see increased degradation of vital land and water resources; and

WHEREAS, corn ethanol's impact on food prices is huge and corn is now trading at an all-time high and this affects food manufacturing and other industries such as animal feed businesses; and

WHEREAS, the burning of corn ethanol increases the emissions of nonmethane gases and hazardous air pollutants that are probable carcinogens and are the causes of numerous health issues such as asthma, chronic bronchitis and other respiratory problems; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and members of the United States Congress realize the major problems of corn ethanol as a fuel additive and the numerous negative effects it has on not only Maine citizens, but all Americans, and we urge and request that the United States Congress consider exempting some grades of motor fuel from provisions in the Clean Air Act

requiring that fuel contain a blend of 10% ethanol in order to make a safe motor fuel available to those who should not use fuel containing ethanol; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the Honorable Gregory H. Friedman, Inspector General of the United States Department of Energy, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

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

READ and **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1180

ORDERED, the Senate concurring, that Bill, "An Act To Fully Enfranchise Voters," H.P. 1087, L.D. 1478, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

Off Record Remarks

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

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

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

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

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

ORDERS

Joint Order

On motion by Senator **COURTNEY** of York, the following Joint Order:

S.P. 520

Ordered, the House concurring, that in accordance with emergency authority granted under the Maine Revised Statutes Annotated, Title 3, Section 2, the First Regular Session of the 125th Legislature shall be extended for five legislative days.

READ.

The Chair noted the presence of the Senator from Sagadahoc, Senator **GOODALL**.

Pursuant to M.R.S.A Title 3, Section 2 a Division was had. 34 Members of the Senate having voted in the affirmative, and no Senators having voted in the negative, and 34 being more than two-thirds of those present and voting, the Joint Order was **PASSED**.

Ordered sent down forthwith for concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Restore Market-based Competition for Pharmacy Benefits Management Services"

H.P. 828 L.D. 1116

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-608)**.

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland
FOSSEL of Alna
MALABY of Hancock
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-609)**.

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)**.

Reports **READ**.

Senator **McCORMICK** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report, in concurrence.

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

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I stand in opposition to the pending motion, An Act to Restore Market-based Competition for Pharmacy Benefits Management Services. This is bad for independent pharmacies. It's bad for patient safety. It's for Maine taxpayers. It's bad for insurance policy holders. It's good for free, giant, out-of-state pharmacy benefit managers, PBMs: Medco, Express Scripts, and CVS/Caremark. The Majority Report repeals Maine law that protects consumers, taxpayers, and pharmacists from the predatory and unethical action of Pharmacy Benefits Management. PBMs are little understood, yet wonderful and lucrative companies acting as middlemen between insurers, employers, drug manufacturers, and wholesalers. They manage

pharmacy benefits for nearly 95% of all Americans with medical coverage. PBMs are active in all aspects of prescription drug coverage, including processing claims to pharmacies, drug utilization review, developing and managing formularies, negotiating with prescription drug manufacturers for rebates, operating mail order pharmacies to fill prescriptions directly, therapeutic interchange, and reimbursement to providers and patients. There is a long history of PBM misbehavior to the detriment of consumers, taxpayers, and pharmacists with many investigations by U.S. Attorneys and State Attorneys General, resulting in billions of dollars in settlements over many years. These investigations and lawsuits stretch back to before 2003, when Maine's PBM law was first enacted, and continues today. Between 2004 and 2008, the three major PBMs have been the subject of six major federal and multi-district cases over allegations of fraud; misrepresentation to plan sponsors, patients, and providers; unjust enrichment through secret kick-back schemes; and failure to meet ethical safety standards. The cases below resulted in more than \$371.9 million in damages to states, plans, and patients so far. United States versus Merck and Company, Inc. et.al, \$184.1 million in damages for governmental fraud, secret rebates, drug switching, and failure to meet state quality and care standards. United States versus Advance PCS, now part of CVS/Caremark, \$137.5 million in damages for kick-backs, submissions of false claims, and other rebate issues. State Attorneys General versus Caremark Inc., \$41 million in damages for deceptive trade practices, drug switching, and repackaging. State Attorneys General versus Express Scripts, \$9.5 million for drug switching and illegally retaining rebates and spread profits and discounts from plans. The Majority Report of L.D. 1116 will increase prescription drug costs, limit oversight and auditing of State contracts, repeal anti-kick-back provisions, repeal conflict of interest and self-dealing restrictions, repeal pricing transparency requirements, repeal patient protections related to switching higher cost drugs for lower cost drugs, and it will repeal protections to consumers who get overcharged for generic drugs. I have passed out a flyer that makes comparisons between the Majority Report and the Minority Report. Mr. President, I ask that you defeat this motion so that we can move the Minority Ought to Pass Report. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator McCormick to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-608) 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 (#255)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator McCORMICK of Kennebec to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608) Report, in concurrence, PREVAILED.

READ ONCE.

Committee Amendment "A" (H-608) READ.

On motion by Senator CRAVEN of Androscoggin, Senate Amendment "A" (S-314) to Committee Amendment "A" (H-608) READ.

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

Senator CRAVEN: Thank you Mr. President. This amendment amends Committee Amendment "A". This amendment prohibits the State agency, public instrumentality, quasi-municipal corporation, or other public entity from contracting for pharmacy services with an entity that has, within the prior 3 years, misrepresented a material fact or committed fraud, been convicted of a violation of state or federal law, or been assessed a penalty or fine of \$500,000 or more. Thank you, Mr. President.

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

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

Senator CRAVEN: Thank you Mr. President. I really hope people will vote in favor of adding this amendment. I can't imagine anybody voting to allow businesses to do business in the state of Maine who has been convicted or who has had to pay a fine for misconduct in Maine or in the United States. This is a very, very serious matter. With cost of our health care and the cost of drugs and the risk of misconduct happening in this state, it's really scary. I would urge you to vote in favor of this amendment. Thank you, Mr. President.

On further motion by same Senator, TABLED until Later in Today's Session, pending the motion by Senator CRAVEN of Androscoggin to ADOPT Senate Amendment "A" (S-314) to Committee Amendment "A" (H-608). (Roll Call Ordered)

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Assist Persons Who May Be Eligible for Social Security Disability Assistance" H.P. 737 L.D. 1001

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

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 PETERSON of Rumford SANBORN of Gorham SANDERSON of Chelsea STUCKEY of Portland

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

Signed:

Representatives: O'CONNOR of Berwick SIROCKI of Scarborough

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

Reports READ.

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

READ ONCE.

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

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Resolve, To Direct the Department of Inland Fisheries and Wildlife To Add One or More Moose Hunting Seasons in Wildlife Management District No. 8 (EMERGENCY) H.P. 134 L.D. 151

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

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 To Pass**.

Signed:

Representative:

- CLARK of Millinocket

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

Reports **READ**.

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

SECOND READERS

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

Bill "An Act To Encourage Transparency in the Department of Education"

S.P. 158 L.D. 566
(C "A" S-300)

READ A SECOND TIME.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-300).

On further motion by same Senator, Senate Amendment "A" (S-315) to Committee Amendment "A" (S-300) **READ**.

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 do a very brief description of the amendment because it's a very brief amendment. When I brought this bill forward to the Education Committee it was unanimously approved. However, when the Department of Education looked at all of the requirements that this bill was asking, they put a fiscal note that required one and one-half positions. What I have done in this amendment is to specify that all of what I'm asking of the Department of Education is readily available to them and compiled by the department. The fiscal note has gone away. There is no fiscal note to this and yet I think not only do we, as legislators, but also the public will be able to understand the Department of Education's budget much better going forward. I urge you all to vote for the pending motion. Thank you, Mr. President.

On motion by Senator **ALFOND** of Cumberland, Senate Amendment "A" (S-315) to Committee Amendment "A" (S-300) **ADOPTED**.

Committee Amendment "A" (S-300) as Amended by Senate Amendment "A" (S-315) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-300) AS AMENDED BY SENATE AMENDMENT "A" (S-315) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator WHITTEMORE for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Maine Consumer Credit Code To Conform with Federal Law"
S.P. 415 L.D. 1338

Off Record Remarks

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-311)**.

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

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

RECESSED until 6:00 in the evening.

READ ONCE.

After Recess

Committee Amendment "A" (S-311) **READ** and **ADOPTED**.

Senate called to order by the President.

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

Ordered sent down forthwith for concurrence.

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

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

ENACTORS

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

Senate at Ease.

Constitutional Amendment

Senate called to order by the President.

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Use a Portion of the Sales and Use Tax for the Protection of Maine's Fish and Wildlife

S.P. 155 L.D. 563
(S "C" S-284 to C "A" S-154)

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

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

Senate at Ease.

Senate called to order by the President.

Acts

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

An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law

H.P. 400 L.D. 507
(C "A" H-573)

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

An Act To Amend the Laws Pertaining to High-stakes Beano

H.P. 418 L.D. 535
(H "B" H-606 to C "B" H-402)

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

An Act To Amend the Child and Family Services and Child Protection Act

S.P. 352 L.D. 1152
(C "A" S-294)

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

An Act To Clarify the Workers' Compensation Insurance Notification Process for Public Construction Projects

S.P. 477 L.D. 1515

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

An Act To Establish the Maine New Markets Capital Investment Program

S.P. 311 L.D. 991
(C "A" S-299)

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

Resolve

Resolve, To Study the Feasibility of Consolidating Health Plan Coverage for State Employees with Other Public Employees

S.P. 261 L.D. 857
(C "A" S-258)

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

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Extend Employment Reference Immunity to School Administrative Units"

H.P. 1030 L.D. 1402

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

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

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

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Allow a Student Attending Private School Access to Public School Cocurricular, Interscholastic and Extracurricular Activities"

H.P. 662 L.D. 903
(S "A" S-293; S "B" S-307
to C "A" H-490)

In House, June 6, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490)**.

In Senate, June 15, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-490) AS AMENDED BY SENATE AMENDMENTS "A" (S-293) AND "B" (S-307)** thereto, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED**.

On motion by Senator **MASON** of Androscoggin, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act To Fully Enfranchise Voters"

H.P. 1087 L.D. 1478
(H "A" H-566 to C "A" H-508)

In Senate, June 10, 2011, **PASSED TO BE ENACTED**, in concurrence.

In Senate, June 15, 2011, **RECALLED** from the Governor's Desk, pursuant to Joint Order H.P. 1180, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508) AS AMENDED BY HOUSE AMENDMENT "B" (H-654)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **FARNHAM** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

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

ENACTORS

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

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a Major Substantive Rule of the Department of Health and Human Services

H.P. 265 L.D. 332

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50: Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded, a Major Substantive Rule of the DHHS

H.P. 1164 L.D. 1581

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell

H.P. 1172 L.D. 1584
(C "A" H-627)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, Appendix D: Principles of Reimbursement for Child Care Facilities, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1173 L.D. 1585

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1174 L.D. 1586
(C "A" H-628)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Repeal the Requirement That Electrical Companies Be Licensed

H.P. 688 L.D. 928

An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents

H.P. 865 L.D. 1167
(C "B" H-406)

An Act To Require Use of the Electronic Death Registration System

S.P. 392 L.D. 1271
(H "A" H-621 to C "A" S-157)

An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives

H.P. 972 L.D. 1326
(C "A" H-429)

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

An Act To Establish Multidistrict Online Classes in Maine

S.P. 206 L.D. 675
(C "A" S-304)

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

An Act To Implement the Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code and Related Statutes

H.P. 1028 L.D. 1399
(C "A" H-618)

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

An Act Regarding Labor Contracts for Public Works Projects

S.P. 378 L.D. 1257
(S "B" S-281 to C "A" S-254)

On motion by Senator **THOMAS** of Somerset, 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-254) AS AMENDED BY SENATE AMENDMENT "B" (S-281)**.

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-254).

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Senate Amendment "B" (S-281) to Committee Amendment "A" (S-254) and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "C" (S-318) to Committee Amendment "A" (S-254) **READ**.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, if you remember when we last visited this bill there was some confusion. We had two amendments and one was in conflict. We had to back off the amendment. We put on the second one. We thought we had taken care of the conflict. We had not. Now the Revisor's Office says this will take care of it. Let's hope so.

On motion by Senator **THOMAS** of Somerset, Senate Amendment "C" (S-318) to Committee Amendment "A" (S-254) **ADOPTED**.

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 York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I was wondering if we could just be told when this might have been passed out. I didn't know if there was another change and I would like to know what the change is. I thought we had taken care of it. I'd like to read it. Is it already filed or is it new? Between now and the roll call I'd like to at least look and see what the change is. You caught me off guard here. Asleep at the wheel or something.

THE PRESIDENT: The Chair would advise that it should already be in the binder. The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to thank the good Senator from Somerset for fixing the conflict. I think the big conflict, though, is that we still haven't got a ruling if it is constitutional or not, so I won't be supporting it.

THE PRESIDENT: The pending question before the Senate is the motion to Adopt Committee Amendment "A" (S-254) as Amended by Senate Amendment "C" (S-318) thereto. A Roll Call has been ordered. Is the Senate ready for the question?

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#256)

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, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: GOODALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (S-254) as Amended by Senate Amendment "C" (S-318) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-254) AS AMENDED BY SENATE AMENDMENT "C" (S-218) thereto, in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

Resolves

Resolve, Directing the Maine Center for Disease Control and Prevention To Conduct a Review of Wood Smoke Laws
H.P. 430 L.D. 547
(C "A" H-407; S "A" S-296)

Resolve, To Clarify the Expectation for the 2012 Assessment of Progress on Meeting Wind Energy Development Goals
H.P. 1005 L.D. 1366
(C "A" H-610)

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

Resolve, To Ensure Cost-effective Services for Persons Needing Neuropsychological Testing

H.P. 940 L.D. 1281
(C "A" H-624)

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1181

ORDERED, the Senate concurring, that Bill, "An Act To Allow Retired Dentists To Obtain a License To Practice in Nonprofit Clinics," H.P. 1155, L.D. 1573, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act To Restore the Health Care Provider Tax for Nursing Homes to 6 Percent"
H.P. 752 L.D. 1016

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-649)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-649)**.

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

READ ONCE.

Committee Amendment "A" (H-649) **READ** and **ADOPTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1182

ORDERED, the Senate concurring, that Bill, "An Act To Cut the Cost of Behavioral Health Care in Hospital Emergency Rooms and To Enhance Access to Peer Support and Community-based Services," H.P. 711, L.D. 967, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002 for Nursing Facility Projects To Provide Alternative Means To Satisfy MaineCare Neutrality"
H.P. 621 L.D. 825

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

Signed:

Senators:

McCORMICK of Kennebec
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 as Amended by Committee Amendment "A" (H-646)**.

Signed:

Senator:

CRAVEN of Androscoggin

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

Reports **READ**.

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

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

PAPERS FROM THE HOUSE

Joint Orders

The following Joint Order:

H.P. 1183

ORDERED, the Senate concurring, that Bill, "An Act To Ensure the Safety of Children in the MaineCare Program Who Are Prescribed Antipsychotic Medications," H.P. 476, L.D. 646, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

The following Joint Order:

H.P. 1184

ORDERED, the Senate concurring, that Bill, "An Act To Improve Preventive Dental Health Care and Reduce Future Avoidable Costs," H.P. 826, L.D. 1114, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair noted the presence of the Senator from Sagadahoc, Senator **GOODALL**.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator **ROSEN** for the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Regulate the Bonded Indebtedness of the State"

S.P. 353 L.D. 1153

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-317)**.

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

READ ONCE.

Committee Amendment "A" (S-317) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013" (EMERGENCY)

H.P. 778 L.D. 1043

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620) AS AMENDED BY HOUSE AMENDMENT "A" (H-636)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-620) **READ**.

House Amendment "A" (H-636) to Committee Amendment "A" (H-620) **READ** and **ADOPTED**, in concurrence.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "H" (S-324) to Committee Amendment "A" (H-620) **READ**.

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

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, this amendment is a technical correction. This was caught by our friends in the Fiscal Office downstairs. It makes a couple of technical adjustments to the bill. One, if there is a provision in the Committee Amendment that talks about a date specific for teacher retirement and it uses the phrase "on or" as it relates to this particular date, this amendment removed the "on or" because, if left in, it would force people to act a month earlier than was intended in the bill. It is simply a correction there. The other two components of this deal with the proper administration and treatment of bonus depreciation and capital investment credit. I ask for your support for these technical adjustments to the bill.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "H" (S-324) to Committee Amendment "A" (H-620) **ADOPTED**.

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

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, I would just like to say a few words before we begin our discussion of the Committee Amendment as amended by the two technical amendments, one from the other Body and one from this Chamber. There is an old English proverb that says, "Smooth seas do not make skilled sailors." Ladies and gentlemen of the Senate, after the past few months of budget work, I can assure you that we have an Appropriations Committee that is ready to win the America's Cup. While I want to focus today on the key components of the budget, I would be remiss if I did not begin with a sincere thank you to my colleagues in the Senate, the Senator from York, Senator Hill, and the Senator from Kennebec, Senator Katz. Working together with a truly remarkable group of members from the other Body, we were able to craft a budget, let me rephrase that, we were able to craft a unanimous budget in the most difficult of times. For that, I express my sincere thanks. I also want to express my sincerest gratitude to the staff who corralled that chaos we created and delivered it packaged to our desks. My thanks to Carol, our clerk, Maureen our analyst, the proofreaders, the bill techs and the attorneys in the Revisor's Office, and our own partisan staff who was there with us night after night, as well as the Governor's staff and a group of first rate commissioners who helped us navigate some extremely difficult times. However, I know I speak for the entire committee in expressing my sincerest thanks to the folks in the Fiscal Office. In short, they have been our compass. Grant Pennoyer and his team are truly remarkable. We are indeed lucky to have such dedicated and talented staff. I sincerely thank them.

Without decisive action, today we are poised to face a looming \$900 million shortfall in the next biennium if we take no action. In my view, the shortfall was caused by four drivers. A significant increase in our public pension costs. The loss of hundreds of millions of dollars of one-time federal dollars used to plug the last budget. Record high enrollment and use of our social safety net programs and stubbornly high unemployment from a tepid and slow economic recovery. In February, the Chief Executive presented a budget proposal full of policy initiatives, which challenged all of us, pushed up against conventional norms, and forced us to examine problems we have struggled with for years. I believe the committee process was open and transparent. We held five weeks of public hearings, listening to 110 hours of testimony from hundreds of citizens. This budget, for me and I know for many of you sitting here today, needed to accomplish four fundamental things. First, to confront our debts and obligations in a way that lifts these fiscal woes from future generations. Second, to provide real tax relief to job creators and working families. Third, to reward hard work and personal responsibility while protecting and funding and improving the safety net for Maine's most vulnerable. Fifth, to fulfill the fundamental obligations of government.

When this budget becomes law every person sitting in this Chamber will be able to look their constituents in the eye and say we have placed the state in a stronger position. This priority was shared by all. There was no partisan divide on this issue. Over the next 17 short years, the State is obligated to retire an unfunded liability in our pension system of \$4.1 billion in current dollars. The pension savings proposed in the Committee Amendment will reduce our unfunded actuarial liability from \$4.1 billion to \$2.4 billion while maintaining the current benefit design. We do propose a three year COLA freeze and a future COLA cap of 3% on the first \$20,000 of retirement income. To help off set

the freeze, we include a provision for a direct payment for an ADHOC COLA for the years 2012, 2013, and 2014 directly from the budget. In addition, this proposal does not rely on even one State shut-down day and does not propose any additional employee contributions towards retirement costs.

It's not enough to simply shape a budget that fixes problems in the future. There are a lot of folks in Maine right now that need incentives to create jobs or to simply reduce the tax burden so that they can keep a little more of their paycheck each week. I'm sure that it will come as no surprise to any of you that, once again, there really wasn't a partisan divide on the issue. The exact amount and how we paid for it required a significant amount of give and take, but we succeeded. When we head home after we adjourn, hopefully very soon, the message to your constituents will be clear. We lowered taxes for all Mainers and we created incentives for Maine businesses to keep the jobs we have as well as to create new jobs. I think one of the most difficult parts of the budget surrounded this notion of personal responsibility and making sure that Maine families have a safety net when they need it most. I should note that there was never any doubt that protecting the safety net was critical. The struggle for the committee came when we had to choose, or I should say define, "needy." In the end we agreed to restore many cuts, but not without restrictions. In short, we redefined "most needy" so that it also included an element of personal responsibility. It is important to note that this budget back-fills hundreds of millions of dollars of one-time federal money used to temporarily fund Maine's Medicaid program in the last budget.

Let me close by once again thanking my colleagues, Senator Katz and Senator Hill. Frankly, this process has been one of the highlights of my legislative experience and, as I serve in my final term in the Maine Senate, I'm very proud to have been part of this budget process and, of course, a unanimous committee report. I'd like to close by directing my comments to my colleagues who are not term limited and will, hopefully, be returning for another term. There is a saying, "To whom much is given, much is expected." For those of you returning, you have a budget that reduces one of our largest and most oppressive liabilities while protecting future generations. You have been presented with a budget that lowers the tax burden for all Maine people. You have a budget that keeps Maine's commitment to protecting our most vulnerable, but also asks them to take on more personal responsibility for the services that they receive. Finally, remember that in voting for the budget you are being asked not just to push the green light, you are being asked to push the reset button and to put Maine in a stronger position for the future. Thank you, Mr. President.

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

Senator HILL: Thank you Mr. President. Ladies and gentlemen of the Senate, it seemed like this day would never come, so I'm very glad it's here and I'm so glad to have a chance to speak to you. I have been truly privileged this year to serve as the Democratic Senate Lead on Appropriations and I thank leadership for that. This gave me the opportunity to do the people's work alongside some of the finest and most hard working legislators. First and foremost, I cannot say enough about the thoughtful and the professional manner in which the good Senator from Hancock, Senator Rosen, conducted himself as Senate Chair. He was unflappable and he made the difficult

task of creating a budget a fair one. I thank him for that. The good Senator Katz, he was my seatmate and an absolute pleasure to work with and he embraced his duties and his fellow committee members with all the talents that he brought to the process. For that I thank you Senator Katz. Our House colleagues were always committed. They impressed me daily with the hours they labored and the respect they showed for the public. In particular, the House Chair, Representative Flood, and the House Lead, Representative Rotundo, had such passion for the budget process and the goals of their caucuses that they inspired us all to have the same. Our work was built upon a collaboration of effort, knowledge, and support of the wonderful staff of OFPR, our fantastic committee analyst, and our clerk. No less important or valuable were the heads of the departments and the agencies and their staff that made themselves available around the clock to answer our gazillion questions and concerns. Finally, there is a whole group of unsung heroes who, though not on the Appropriations Committee, were so dedicated to their own committee's concerns and issues that they worked side by side with us day, night, and weekends to build a budget that was sensitive as best as possible to the needs of all Maine people. Six hundred and thirty-seven pages and two thousand line items later, here we present to you the 2012 and 2013 biennial budget.

Four months ago a budget document came down from the Governor's Office, and we have to thank him and his staff for their hard work to present us, the Legislature, with a starting point. Since then, this complex document, after weeks of public hearings and input from the public through hearings, letters, e-mails, and phone calls, morphed many, many times. Today the fact is that it is everybody's document and it's going to guide us over the next two years. This is a budget of compromises and it does some of the following. It takes care of our most needy; the sick, the disabled, and the poverty stricken. It helps transportation. It keeps funding for our treasured MPBN. It honors our education system with additional funding and expansion of our successful community college system and the creation of a school for at-risk students. It increases our safety systems with additional State Troopers, drug enforcement officers, and court personnel and programs. Very importantly, it thanks our State employees for their part in helping us through some of the most difficult times by restoring them the furlough days we had taken and by funding many of them who have new reclassified positions. It provides a sustainable path for the State pension system while at the same time it eliminated the original proposal of a 2% employee contribution and the need for retirees to pay for their health insurance. It also maintains general assistance to our municipalities and it restores revenue sharing to its original formula after the next two years. It also does so much more and, as you've heard from the good Senator Rosen, it's a long and complex budget with many moving parts. All of this presents us today with a budget that was built on consensus between Republicans and Democrats. I really have to thank the Republicans for treating us as equals at the table. There were only five us and there were eight of you, but we never felt the numbers. My fellow Democrats, those in this Chamber and those listening, I want to tell you, don't you make any mistake about it, there is a huge, huge Democratic handprint on this budget. Nonetheless, there are parts of this budget that people are just completely not pleased with. The second floor is not completely pleased. The other Chamber is not fully pleased. This Chamber is not fully pleased. The Republicans are not fully pleased and the Democrats are not fully pleased. Given that this is a budget

resulting from much give and take, not being fully pleased is fully expected. I thank you for your time. I thank you for your support over the months. I encourage you to vote for this budget. Thank you, 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, how lucky am I? I get to spend hundreds of hours sitting between Senator Hill and Senator Rosen. This was my first biennial budget as a freshman member of this Body and it was my honor to serve on this committee. I thank the good President for that opportunity. I'm working on my term paper; what I learned on my winter vacation in Appropriations. Here's what I learned. The first thing is that in order to reach a consensus on a \$6 billion General Fund Budget, nothing gets done without great leadership. I sat between two great leaders; between Senator Rosen of Hancock and Senator Hill of York. In our final days, Mr. President, I learned that significant budgets don't get passed without the assistance of leadership of the Senate; both you, Mr. President, and the good Senator from York, Senator Courtney, as well as the esteemed leaders of the Minority, the Senator from York, Senator Hobbins, and the Senator from Cumberland, Senator Alford. In thinking about this, I realized that three of those people are from York County. I'm not sure what's to be drawn from that. Also, nothing gets done without the great staff that we had assisting us, as the good Senators have already pointed out. The leadership did not attempt to insinuate themselves in the process of our committee, but yet were there to offer guidance and assistance in a very helpful way on both sides. I also learned about the vast scope of state government; everything from State Police to our laboratories and everything in between, and that well over half our state government operations are not funded by General Fund dollars, but by federal dollars and other revenue sources. I also learned that a good budget starts with the Chief Executive and it continues with the thoughtful input of all the subject matter committees that are represented in this Chamber who go through their portions of the budget line by line by line and report back to us with their priorities and their thoughts. I can assure you that all of those were taken very, very seriously by the Appropriations Committee. It also takes, on the Appropriations Committee, people of good will from each party. Here one sees the playing out for weeks of the tensions all of us feel from time to time between fighting for what we believe are our core values and our core principles, at the end of the day realizing that compromise is not a four letter word, either literally or figuratively. There are 184 of us here on this floor and very little can happen without compromise.

A couple of days ago we had to be exposed to the unfortunate references of the Senator from Aroostook, Senator Jackson, about Ozzie Osborne, which conjured up images of a performer's unspeakable behavior on the state. I was looking for some other analogy for this evening. I thought of a kinder and softer image of Goldilocks and the Three Bears. Like Goldilocks, some will find this budget too hot, that may be there should have been more money for general assistance for schools or more revenue for revenue sharing or more money for highways and less money on other things. Maybe some will find it too cold, that we didn't do enough to cut state spending or we didn't do enough to bring down the unfunded liability in our pension system. Thirteen of us, plus eight from leadership, found that, individually

for each of us, that maybe it needed a little more salt, maybe it needed a little less pepper, but you know what, it's just about right. Each of us in this room ran for office and knocked on doors. Whether we are Republicans or Democrats, I think we heard the same thing. People weren't happy with the direction our state is headed in, that being the oldest state in the country was not something we were proud of, that having one of the worst business climates in the country was not something that we were proud of, and that was not going to continue if we were to have any chance of keeping our children and our grandchildren here. This budget, as the good Senator from Hancock, Senator Rosen, the good Senator from York, Senator Hill, have pointed out, makes some significant policy changes. These are not Republican changes. These are not Democratic changes. These are bi-partisan changes. I urge everybody's support of this budget this evening. Thank you, Mr. President.

On motion by Senator **WOODBURY** of Cumberland, Senate Amendment "C" (S-316) to Committee Amendment "A" (H-620) **READ.**

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

Senator **WOODBURY:** Thank you Mr. President. It was quite heartwarming and moving to hear about the wonderful work done in Appropriations. I watched a lot of it and appreciated a lot of it and know that all of the members of the committee compromised, and I appreciate the compromises that they were able to make to get to this point. I want to talk about some general thoughts about the budget, some remaining concerns that I have, and where this amendment that I've presented helps to address them. Early in the session, before we directed our attention to the next biennium, we had a supplemental budget for the previous biennium. That supplemental budget was made possible by a reprojection of revenues to the State that said we were going to have \$116 million more than we thought we were going to have for the current fiscal year that we're just finishing. The supplemental budget that was presented to us said we need to get ourselves out of the significant debt that we're in. It allocated almost the entire \$116 million to addressing the hospital debt, a debt that, clearly, we made to hospitals and wanted to get out from under that debt. I can't remember if it was entirely unanimous, but I think it was at least close to unanimous, that we all agreed that was a good thing to do here. That brought us to or that set the stage, I think, for our beginning to evaluate the budget for this coming biennium. The framework of the budget proposal that was brought to us was one which highlighted another very large piece of our debt, again trying to get us out of the hole, to fix and to make our budgets more sustainable for the long term. That, of course, was our pension debt. What differed about the proposal for the pension debt was it was not a proposal to indisciplinately pay off the debt, but rather to redefine it in a way that, in fact, said the debt was smaller. It did so not just by talking about changing the pension system for work that people would be doing from today going forward, but also going back, retroactively, and saying that we're going to treat past work in a way that is different than we said we were going to. It was a different approach to dealing with a debt problem than we had used when we were talking about the hospital debt. Here we are today with a budget agreement that allocates spending across the competing needs of government in a way that the 13 members of the

Appropriations Committee and party leaders found to be reasonable. I so honor the collaborative process and the sense of compromise that brought us to this point.

Here's my but and the reason for my amendment. The but is that this budget, as has been expressed already, is not just a allocation of the budget, but a major policy reform document in at least two policy areas; that's the pension system and taxes. I realize that hearing a floor amendment when we're about to pass the budget, I'm not going to substantially change pension policy or tax policy with an amendment here. This amendment is really a smaller piece, but I'd like to advance it nonetheless. Let me begin with the pension aspect of my amendment and my concerns with the pension policy changes that, at this point, are in the budget proposal. Let me say at the outset that I have been an enormous advocate for pension reform. This is something that I would say about the Social Security system, about private employer plans, and about the State plans. We cannot, as a country, continue to think that age 62 is the normal retirement age. It's not a sustainable retirement age when live expectancy at age 62 is more than 20 years. I absolutely believe that we need changes to our pension system going forward. The principles that I would have advanced for pension reform have three key aspects, none of which are in the current plan and part of the reason for my amendment. Principle number one, I think there needs to be a very bright line between how we treat years of service that people have performed for work they've done all the way up to today versus the way we treat years of service and work going forward and making that bright line different, I think, is a very important aspect of pension reform. Second, I think that, to the extent that we are taking away something, we're going to have a less generous pension policy, I would like to allocate the burden of the change incrementally more heavily to those who are incrementally further away from having to retire. Those, for example, who are in retirement or on the eve of retirement, I would rather not impose a lot of harm on that population, but the further you are away from that, the younger and younger you are, I think you can be affected less dramatically by reforms because you have more time to plan and change your behaviors and so forth. That is the second principle. The third principle recognizes the importance of cost of living adjustments in the design of a pension plan. Remember that the plan that we have in place for State employees and teachers in Maine is instead of Social Security. The large majority of the workforce nationwide has a Social Security benefit which is fully inflation adjusted. We, in Maine, have chosen to have a system that is outside of Social Security and that makes the presence of a cost of living adjustment particularly important. As you know, with a COLA the buying power of a pension gradually erodes over time as inflation in prices takes place and that erosion is most significant for people who live a long time. It's a compounding in the erosion of the buying power. I would argue that in a reform you want to preserve the COLA almost more than the baseline level of the benefit because people can plan to work to the appropriate time to have a baseline level that is appropriate, but once they are retired that's when you want the insurance and the COLA is providing the insurance. The reform that is in the budget is a reform that really does just the reverse of what I would have envisioned from these three principles in that it puts the greatest burden on those who are already retired or on those who are on the eve of retirement. It does that because it really quite dramatically reduces the COLA amounts. Everybody in the Chamber, I'm sure, has been briefed on the details of what the

COLA changes are. There is a three year freeze at the beginning, a 4% maximum adjustment in current laws reduced to 3%, and it's applied only to the first \$20,000 of income. Together these changes make quite a big impact, again, that affects most of those who are already retired or on the eve of retirement.

To just help myself in trying to figure out how important this was and the magnitude this was, I put together the handout that went around a little while ago that looked at somebody retiring at age 62 today and what their pension would be under current law versus under the reforms that are in the pension system. You will see it's a lot less. For example, a person who retires with a pension that is \$20,000 today by age 70 the amount they would be getting annually is about \$2,500 less under the proposed change than it would be under current law. This is somebody who's been in the system and was sort of expecting one policy and it's being changed. This corresponds to a decrease in the buying power of the pension by age 70 of 90%. The decreases, of course, are much larger if you're beginning pension is more than \$20,000 because only \$20,000 is subject to inflation adjustment under the new system. Perhaps even more importantly, if the future levels of inflation turn out to be higher than we project, higher than the 3% average that we've had for some time, where we go to a 4% average, the erosion of buying power would be much more dramatic. My amendment is far less than the comprehensive sort of pension reform than I envisioned, but the amendment would simply raise the amount of income that is allowed to be adjusted for the COLA from \$20,000 to \$25,000. That's a piece of it. Again, it's a small step towards what I think would be a better policy, a better policy that I feel would focus much more heavily on the years of service going forward for people who are still working rather than focused on the retirees, but this is at least a small step towards restoring that.

Let me return now to the second major area of policy that the budget addresses, and that is tax policy. Again, this is an area where I have been eagerly involved in thinking about how a reformed tax system should look like. The absolute biggest piece, I guess there are two things, but the absolute biggest thing that I would advocate for, and I've done so again and again, is lowering the top income tax rate. Our income tax rate of 8.5%, I think, is a seriously bad signal for the success of our economy. I've also suggested that reducing spending, reducing overall spending, alone cannot get very far in lowering that top rate. What we really need is a reweighted system that down-weights the amount of revenues that we take from income tax and makes up for it through consumption taxes. There are lots of reasons why I think a State tax code is better with that kind of a reweighting. Here we are with a reform that is a tax policy reform that, once implemented, will have a revenue loss of nearly \$200 million per year. With that, all we've accomplished on this important goal of reforming the system is lowering the top rate from 8.5% to 7.95%. Part of my concern is just a missed opportunity. If we are going to put in place a \$200 million a year tax cut let's at least use that tax cut to leverage a reweighting of the system that gets us a lot lower than 7.95%. I've worked on many proposals that have 4% income tax rates by reweighting the system that don't even inject that extra \$200 million of tax cuts. With the \$200 million of tax cuts, I am absolutely sure we could have a reform that would lower our income taxes to something like in the 4% or lower range rather than the 7.95% range. I'm just troubled that we're doing this as the reform.

What does my amendment do? My amendment just puts off a little piece of the tax reforms that are proposed in the budget.

My amendment retains the lowering of the top rate from 8.5% to 7.95%. It retains the conforming to the federal exemption and the conforming to the federal standard deductions. What it takes out is the rate reforms in the middle. It puts back in our current rate structure of 2%, 4.5%, and 7% instead of this new flat 6.5% rate. With the idea that the reform discussion really should be conducted in a more global way, rather than kind of advancing this semi-reform, I'd really like to use the opportunity to look at a much more substantial reform. These two pieces together, the pension piece raising the amount of pension income that is eligible for cost of living adjustments from \$20,000 to \$25,000, has a cost to the biennium budget of about \$26 million. Removing the tax reform piece that eliminates our 2%, 4.5%, and 7% rates and does move ahead to the 6.5% saves \$37 million. My amendment has a net positive \$11 million for the biennium budget, which I know can be put to good use either with other tax reductions or things on the table or other needs that we may have as a state. That's my amendment and I encourage you to adopt it. Thank you very much.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "C" (S-316) to Committee Amendment "A" (H-620).

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

Senator **ROSEN:** Thank you Mr. President. First of all, I want to make perfectly clear the enormous level of respect that I hold for the expertise of the Senator from Cumberland, Senator Woodbury, in a whole range of matters, but in particular in matters that relate to economics, tax policy, and pension policy. I know these are issues that the Senator has actively been involved in during his service in both this and the other Chamber. I wouldn't, for a minute, begin to diminish his expertise in these areas or his sincere desire to make improvements. I am, however, compelled to remind folks that, as we have gone through this process in the committee to develop the final product that is before you, we started with a proposal that we spent a tremendous amount of time examining, both in the tax and pension and health benefit arena and came to the final product, which makes modifications and changes. I'd just like you to realize that the proposal that is before you, first of all in terms of the pension benefit, we do not propose any changes in the benefit design itself. We spent a tremendous amount of time in committee with the experts from the retirement system, learning more and more of the different components that make up the actual design of the pension benefit. It was our determination that we would not go there and we would not, in fact, change the elements of the components of how the actual benefit is designed. As you've seen, the effects of the proposal that's before you does reduce the amount of the adjustment on a go forward basis when looking at cost of living. Our impact is a reduction of the increase as opposed to a redesign of the current benefit. I think that's important to point out. It's also important to mention that the comprehensive nature of the proposals that we received allowed us to get a sense from people that appeared before the committee and communicated with us of the priorities. The original proposal from the Chief Executive, for instance, called for individuals retiring before Medicare eligibility age, age 65, in effect they would no longer receive health insurance until they reached age 65. That was probably the number one issue that we heard

from both the active workforce and even the retired workforce in terms of objections. We responded to that and that was removed from the proposal. There were objections to increased participation in premiums for retirees with the health benefit. That was removed. There was strenuous objection that we heard as we examined a proposal to increase the employee contribution by 2%, the active employee contribution. That was also removed from the proposal. I think the work of the committee has been careful and has meant to reflect the priorities of the populations that are directly impacted and those members in the workforce that look to the future.

In terms of the tax package, again we have a piece of work that is produced from both hours of compromise, examination, and a thorough review in the Taxation Committee, the policy committee itself, and then within our own committee to, once again, come up with what we saw as a comprehensive negotiated package. It's very difficult, at this point, to begin to pull pieces out of that. I would say there is certain logic in terms of how we reached some of the numbers that are before you. For instance, we know that the average retirement benefit in the State system is \$19,000. We wanted to be sure that the amount of retirement income subject to a COLA adjustment did cover that average retiree's level of reimbursement. We also made adjustments in the budget to make sure that there was a direct payment, as I mentioned earlier, during the years when we freeze the COLA. Even though there is a freeze in the COLA system to generate savings in the UL, there is \$15 million set aside each year of the budget to make available an ADHOC payment. Once the COLA is reestablished at the end of the three year freeze, it does build into the base amount and is adjusted upwards thereafter. I hope that you will support the motion to Indefinitely Postpone this amendment and go on to support the Committee Amendment.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "C" (S-316) to Committee Amendment "A" (H-620) **INDEFINITELY POSTPONED.**

On motion by Senator **BARTLETT** of Cumberland, Senate Amendment "A" (S-312) to Committee Amendment "A" (H-620) **READ.**

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

Senator **BARTLETT:** Thank you Mr. President. This amendment is designed to deal with a problem that I've heard a lot about, and probably you have, from State retirees. Currently, when the cost of living adjustment goes back into effect it will only affect the first \$20,000 of the retiree's benefit. This proposal seeks to raise that to \$25,000 so we can capture a lot more retirees. To fund that, we had asked that an additional \$26,000 be set aside from the State's wholesale liquor contract. That would be a total of \$46 million they would be taking from a down payment on the liquor contract. To put in context, in 2005 we took \$120 million as a down payment from those liquor contracts. What we are talking about is only a fraction of that amount and we certainly expect now that down payment to be well upwards of \$120 million that was seen in 2005. It is for that reason I think we should fully support this option.

The question is; why is it so important to raise this cap from \$20,000 to \$25,000? Currently 38% of teachers and 55% of State workers have a pension at \$20,000 or below. If we simply

raise the cap to \$25,000 it would cover the full pension of 55% of teachers and 70% of State workers and retired law enforcement. This is extraordinarily important, particularly in the context of recognizing that they don't get Social Security or the automatic cost of living increases that are included with Social Security. This is their sole retirement. If inflation rises quickly, Maine seniors, their retirees, will be left behind with catastrophic consequences for themselves and their families, but also for Maine's economy as their purchasing power declines precipitously. We often get trapped into thinking that the way things are today is the way they will always be. The fact that we've had pretty low inflation over the last two years, we tend to think we won't see a big jump over time. We know from history that there are periods where the run up from inflation can have catastrophic consequences if your income isn't also affected by that. With retirees, we could find ourselves in a very difficult position with thousands and thousands of retirees left behind if we were to see the kind of inflation we've seen just in the periods of the last 20 years. I hope that you will adopt this amendment. It's self funding as funded through the proposal I've offered. It is well worth the investment to protect Maine people. Thank you.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-312) to Committee Amendment "A" (H-620).

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

Senator **ROSEN:** Thank you Mr. President. I'd just like to make two points. With regards to the 3%, it is certainly true that none of us can predict the future and what the future will hold, but again I want to make sure that the members of the Senate realize that we did look at this very carefully. We did examine the 30 year history and the average over the last 30 years of the actual COLA awards in the system has been 2.8%. Looking at that history and realizing that there is certainly up and down years, as a matter of fact we happen to be in a flat year this year, I think if you look at the Social Security system's adjust for this year, there is a zero increase in terms of any CPI, that's the current calculation that fits into Social Security this year. Our average has been, over the last 30 years, 2.8% and I think the 3% gives us a historic benchmark to rely upon. As far as increasing the amount of money or prepayment related to the liquor contract, the committees were very concerned that we did not want to repeat the experience that, again, the State leaned on the first time the wholesale liquor business was put out for contract. That was to depend on a larger up front and a smaller future revenue stream. We very much, in terms of the policy that the committee is putting forward, wanted to only seek a very modest up front payment to be sure that we would have a much larger on going future revenue stream and have made provisions in the bill to make sure that a portion of that revenue stream helps with many of the chronically unfunded areas, or under funded areas; particularly transportation, water and sewer infrastructure, and our reserves. It was a forward looking view to make sure that there was a steady revenue stream in the future and we would prefer that that not be diminished.

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

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first I just want to take an opportunity as a member of this Body to thank the hard work of all the members of the Appropriations Committee. I know it's not really a great job when you don't have any money to spend. I know that they work long and hard hours. It's greatly appreciated. I just want to extend my thanks. Also my congratulations for being able to come forward with a unanimous committee report. Given the conditions, I think it's exceptional and I'm very happy with the results.

With that said, I feel that it's my responsibility to stand in favor of this amendment because I've heard from so many people, especially educators who really deserve, I think, recognition through their benefits plan that we don't shirk our responsibilities in this fashion towards their retirement. If we raise the level up to the amendment level, I believe we reach about 80% of our retirees' maximum amount on their retirement. That's why I speak against the pending motion, but in favor of the amendment, especially given the fact that in this budget there is close to a \$400 million push out tail of essentially money that we'll have to pay later on down the line. I think that people who have banked and planned for their retirement deserve better and I think it's my responsibility to speak as their voice here from the people who have contacted me within my Senate District, but also statewide. Please join me in defeating the Indefinite Postponement. Thank you very much, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "A" (S-312) to Committee Amendment "A" (H-620). 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 (#257)

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

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFISKY, GOODALL, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-312) to Committee Amendment "A" (H-620), **PREVAILED**.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "D" (S-319) to Committee Amendment "A" (H-620) **READ.**

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, what I originally wanted to do with this amendment was to have the cap disappear in 2014, the \$20,000 cap on the retirement amount. However, that didn't really work out because that would create a massive fiscal note. What I did was a much more simplified amendment which says that the committee of jurisdiction will have a look at the cap and examine that and then have the ability to report out a bill to address this. The reason is that I don't think that this should just go on forever because the financial situation, hopefully, and the economy will improve. I think that it is our responsibility to really go back and look at this and meet those responsibilities that we had promised. This is not a big amendment. I understand that, but it is a gesture for us to say we're doing this. We're in dire straights, financially. We recognize that what we're doing here is not perfect and we're asking in 2014 for the Appropriations Committee to go back and review this component of this and then, perhaps, move forward.

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

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-319) to Committee Amendment "A" (H-620).

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

Senator **ROSEN:** Thank you Mr. President. First of all, I want to assure the Senator from Penobscot that her concerns are heard by the members of the committee and we have a provision in the budget document where we direct the retirement system to conduct a more comprehensive view and report back to the Appropriations Committee in January of next year to take a broader look at converting the State's system to a Social Security based system by the year 2015. We're particularly interested. We understand that this has been looked at in years past and hasn't moved forward. We understand all of the challenges associated with that, but we think now is the time, when people are ready to commit themselves to that idea. We have a proposal in the budget. The director of the retirement system chairs the working group that includes members of organized labor, both within the State system and in public education. It sets a date certain. It also makes references to an examination to both the rolling average recovery of loss related to the constitutional amendment and to the 2028 date itself. We're very much interested in examining and putting forward reforms related to the entire system. I would also like to assure the Senator that the members of the committee did express the willingness, the intent, and the desire to revisit this issue as well. We have established a mechanism in the budget to come back to us with a substantial, I believe it would be substantial, and comprehensive report and it does include date certain.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "D" (S-319) to Committee Amendment "A" (H-620). 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 (#258)

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

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "D" (S-319) to Committee Amendment "A" (H-620), **PREVAILED.**

On motion by Senator **BARTLETT** of Cumberland, Senate Amendment "E" (S-321) to Committee Amendment "A" (H-620) **READ.**

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

Senator **BARTLETT:** Thank you Mr. President. This amendment eliminates two important areas that I think should never have been included in the budget in the first place. The first is that it eliminates all of the changes to the retirement system with the exception of two items. It leaves in place a one-year freeze on the COLA and it imposes a cap of 3% of the maximum annual increase in that adjustment. Otherwise all changes to the retirement system are removed from this budget. The second major change is removing all of the tax proposals from this budget. The reason for doing that is simple. These two policy areas are extraordinary policy changes that, in my view, should not be buried in a budget document, but should be considered separately, on their own merits. I also think it's improper to pair these two significant policy changes together

I think from the time I first started digging into the budget I was deeply concerned that we appear to be funding tax cuts through changes to the retirement system. It didn't seem to jive with a second line of criticism that I've been hearing about the retirement system, and that is it was in crisis and that if we didn't do something quickly the whole system was in jeopardy. If it is true that the retirement system is truly in crisis then any changes that we are making to our retirement system and any savings

generated should be put back into shoring up the retirement system. If you have a system in crisis, let's make the changes we need to make and put the money back in to pay the unfunded liability and to make sure that we are protecting that retirement system. Unfortunately, this proposal doesn't do it. It makes changes and then turns around and gives extraordinary tax cuts at the same time. In my view, this bill, this budget, at best, with respect to these policy areas, trades one problem for another. One perceived crisis in the retirement system traded for a huge structural gap in the next biennium. It will cost about \$300 million to pay for this tax cut in the next biennium. That is just a punt. We're kicking the problem down the road, in terms of how to pay for it. If you look at the fiscal note, you will see that my proposal, pulling out the retirement changes and getting rid of the tax cuts, has a net savings of just under \$4 million in 2011-2012, a little over \$45 million in the next year, and then once you get out to the tail that has been put on these proposals you see that in 2013 it is \$138 million and in 2014 it is \$155 million. That's an extraordinary structural gap we're creating.

I'm not sure why we would want to do that in a budget document, which is designed to be balancing our budget and putting us in a better place going forward. If this budget is about putting our financial house in order, let's do it. Let's not add a huge new problem going down the road. We've often heard that if you make tax cuts you'll end up with more revenue in the end. It's trickle down economics. It's been tried over and over again with a zero effect. Every time it has been tried it has failed. We know we're going to have a huge gap coming two years from now. What are we going to do then? Why are we rushing these changes through the budget? If we want to have a really serious talk about tax reform, let's have that conversation and let's put forward a package that will survive the long term. The same thing with pension reform. Let's talk about the ins and outs. Let's talk about how savings generated can be used to add life to the retirement system, to shore it up, and make sure that we are protecting people who have committed so much of their lives to serving the State of Maine. Thank you, Mr. President.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-321) to Committee Amendment "A" (H-620).

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

Senator **ROSEN:** Thank you Mr. President. I would just like to touch on three points. First of all, the future income growth, even with the proposals that are in this budget, the committee spent a fair amount of time looking at the long term revenue forecast from the most recent forecast. If you recall, we have a brand new economic forecasting commission. They came in with a more conservative economic forecast than our previous forecasting commission last November. That resulted in a downward adjustment in our revenue forecast going forward, reducing revenue in the next biennium by \$140 million. We wanted to examine the out-year revenue and look at the proposals that are in the budget and see where we end up. It was interesting. We discovered, from that analysis, that we still see revenue growth, net revenue growth, coming into the next biennium and the next biennium beyond, even with the proposals that are in this budget that relate to taxes. Secondly, the pension obligation was mentioned. If we do nothing, we are poised now to have a bill for

the next biennium from the pension systems increase \$300 million over the biennium that we're leaving. The increases are real. The increases coming from the pension system, because we're facing the 2028 deadline and because we're paying for recoveries from the market losses in 2008, are, in fact, significant and if we do not make modifications we do, in fact, face a major crowd out. Finally, this amendment is a complete and total rewrite of the budget. To present this argument on June 15th after what I believe to be a very open and transparent process, is a little late in the day. We would have been more than happy to listen to this argument a few months ago. It's a little late to see it now.

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

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I can count and I understand what's going to happen. I've listened to a lot in the last couple of weeks about pensions and how important teachers are. I was a little upset that we didn't get a chance to at least vote for one earlier amendment or have a chance to express it. I am one of those people, as you well know, that is retiring. Back when I was silly and first out of college, or even before that, because women didn't go to college that often when I was in school, I was asked if I would like to be a nurse or a teacher. Couldn't stand the sight of blood, so decided to become a teacher instead. I didn't know I'd see so much blood shed as I got to be 62. I've listened to everybody about how caring they are. Well, I need to tell you, this does affect me and hundreds of people who are retiring. Graduation is tonight and I should have been there, by the way. We call it promotion now in the 8th grade. My concern is that I listened in January to the State of the State Address by the Chief Executive. No more gimmicks. Pay for things up front. Yet I see a tax break here that doesn't come due until 2013 - 2014. Almost \$400,000. I'm going to have a couple of tax bills come before that. Retired people are. I also chose to live in the state of Maine, which is one of 15 states that has the Social Security off set, even though I worked through high school and through college to pay for my college. It was a lot cheaper than, but wages were a lot lower. I've changed twice a plan based on things that happened to my husband, like a textile mill in Biddeford, those big mills, it's not only Millinocket, Biddeford too that went belly up. We changed again a plan. I've done everything in my power to arrange for retirement. We're going to give a tax break and it doesn't come due until 2013 - 2014. Pay for things up front and no more gimmicks and no more mirrors. Those are the things I heard. Do you know what? I cheered him. I started in the Legislature under an Independent Governor. All these seemed to have wanted to do some type of mirrors. This one is a mirror game. I don't know what to do about it. You're right. It's too late. I don't get involved in the Appropriations. I knew there were no bonds. Okay, that's fine. I think it's time to realize there are real faces on the people that are involved and trying to make a living and paying for the heat and living in Maine, that have stayed here and haven't gone south, haven't done the other things when they retire. We stuck it out. I gave up for the benefit of the city of Saco in teaching, for the state of Maine, and we gave it our best. We have a huge structural gap

that we are creating to give a tax credit. We are the oldest state in the union. Downeast, all of them talk about the graying of Maine. We have balanced this on the back of the retirees. Actually we did fairly well by the working State workers right now. I agree, people coming in now understand what's happening. Now there is more talk than ever. We will do annuities and we have. That all came too late for me and people around my age. It's hard for you that are in private companies, private law firms, and private companies and have been able to collect your Social Security. Maybe you've been in the military. For people who have chosen to give to Maine students, for people who have chosen to plow your roads as a State worker, or to pick up the dead animals off the roads, and they are still 62 or 63 and working, I could have retired at 60, I'm 62, I worked another two years trying to figure out how I could make this work. We give a tax credit with about \$400,000 after we leave here. I'm having a hard time understanding that. A really hard time. I'm disappointed, but I know the numbers and I have no amendments in. When you go home and you talk to your teachers and talk to the people that have stayed here, worked their lives, paid their taxes. I've paid every tax bill, I've never had a lien against my house, I have struggled, we've taken on separate things. You've balanced on the back of retirement to give something that's a tax credit two years from now. It's not what the Chief Executive promised us in January. I sat in the other Chamber and listened to that State of the State Address. There is a problem. It is smoke and mirrors. It's been going on for a long time. Nothing's changed. Just who sits on this side of the aisle and who sits on that side of the aisle. There's no amending it because I understand how the game works. Don't you doubt for a minute what you've done to retired people, who are retiring now. 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, the tax cuts that the good Senator from York talks about are tax cuts for all Mainers. Tax cuts that relieve about 7,000 current tax payers of any obligation to pay income taxes. Tax cuts that finally will spur the kind of capital investment in the state that we all know we need if we're going to have jobs. Tax cuts that were the unanimous agreement of 13 members of the Appropriations Committee; Republican and Democrat. This amendment, Mr. President, is one of several being offered with the same goal in mind in terms of the pension proposals. It's an amendment for which I have great sympathy. Being the State Senator from Augusta makes me different in a couple of ways. One, I have a shorter drive to home than anyone in this Chamber. The second is that I represent more State employees than any of you, by far. For me, dealing with issues surrounding our State retirement system has been the most difficult for me in this session. I won't spend 45 minutes describing the complexity of this issue as I have come to understand it over the last six months, but trust me, it is complicated. I will say that the time and the place we have found ourselves demanded that we take strong and bi-partisan action. That's what we did. It doesn't get more bi-partisan than 13 - 0. It's got nothing to do with who's what side of the aisle. If we did nothing, if we just kicked the can down the road, the increasing payments to the retirement system, every single year as required by the constitutional amendment, would have crowded out every single program that each of you in this

Chamber finds important, whether it's social services, whether it's aid to education, or whether it's fixing our roads and bridges. It would continue to go up and up and up and crowd out our ability to fund any kind of a sensible State budget going forward. I take no pleasure in telling my constituents we have to make any changes in the retirement system. These people work hard. They have worked hard. The fact that we have this problem is not their fault. It's our collective problem. Yet to do nothing is irresponsible.

To those railing against this unanimous bi-partisan committee report, I'd remind all of us that we have come a long way since the initial budget proposal was made back in January when the original budget was presented to us, a proposal that would have forced all employees to decide between now and January 1 whether to retire or not or face having to pay their entire health care premium themselves out of their own pocket until they turned 65. That is gone. A 2% additional assessment on each and every State employee's pay to go to the retirement system, that is gone. A 2% cost of living increase cap, that is gone. The shut down days that we've all come to hate, they are gone. The idea that retirees were going to have to pay anything for their health insurance, that's gone. This was a compromise and, I emphasize, a bi-partisan compromise. The provision in question is the COLA limit of 3% to apply to the first \$20,000 of retirement income. You've heard why those numbers were chosen. I'm not happy with them either. The reason they were chosen is because the 3% is the average, actually a little over the average, of the last 30 years of what cost of living has been and \$20,000 is about the average that State employee retirees are receiving.

Two more things that Senator Rosen mentioned that are part of this bill and I think are important. One, we are going to have a plan to get off this rollercoaster we are on where the health of our retirement system depends on not what we do here as much as it does what happens on Wall Street. We're going to get to a Social Security contribution plan and we should. Secondly, Senator Rosen also mentioned that there are those of us who think we ought to take a second look at that constitutional amendment that artificially says we have to pay this whole unfunded liability off by 2028 and its accompanying provision that says that losses, like the huge ones we suffered in 2008, have to be made up within 10 years. This amendment, for which I have great empathy, doesn't stand alone. If you pull one thread from the pension proposal, a delicately negotiated compromise falls apart because you're not only affecting the budget number of how much the State's going to have to pay this year, but, perhaps more importantly, you affect the unfunded actuarial liability number. This is one of those provisions that helps knock down the unfunded liability by about \$1,000,700. On a more broad basis, this entire budget is the result of compromise and trust. This piece fits with that piece which fits with this piece which fits with another piece. If you pull a thread and the whole thing begins to change and fall apart. These pension changes are not Republican changes or Democratic changes. They are unanimous bi-partisan changes. I'm probably not any happier about than anyone in this room, but it's a compromise reached after hours of debate and discussion and compromise. I hope that at some point we will be in a position to do a better job for our hard working State employees and retirees, but this is a compromise. We had to make it and it has nothing to do with where that aisle is. It was 13 - 0 and I hope that everyone will vote in support of the pending motion. Thank you.

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

Senator SCHNEIDER: Thank you Mr. President. Men and women of the Senate, I rise because I wanted to speak about the bi-partisan work that was done first and say that we acknowledge that that a good body of work and it was a difficult situation. I think why I am going to vote against the Indefinite Postponement of this amendment really talks to how we are paying for the tax refund or, I should say, tax reduction for people. It seems to me, and I think to a lot of people, that even though you said it's a complicated situation, for a lot of the State employees I don't think it's complicated at all. What they see is a change to a promise that was made, a pulling out of a rug from under their feet. To them it is speaking volumes when, at a time when we really cannot afford a tax reduction, we are doing it. This has been something, I don't want to be disrespectful, that a lot of people have said to me that this is a real gimmick. It's taking from, going back to the old phrase, robbing Peter to pay Paul. It's taking from the State employees and teachers and educators in order to pay for a tax reduction at a time when we really can't afford one. As somebody who has gotten, I'm sure just like many of you, including the last speaker, many e-mails on this issue and many communications by people who are just absolutely stunned by the fact that we would allow this to happen, given a promise that was made to the State employees. There were people who suggested to me that we at least raise up the amount to \$25,000 or \$26,000 because at least you would cover something like 80% of the employees, but we have failed in that way as well. We've often heard these shift and shaft phrases and taking away from one to give to another. To a lot of people, they feel like it's the reverse Robin Hood. This is why these amendments come forward, because they speak to our values and what we believe in our heart of hearts is the right thing to do, to be a voice for those people who don't have the opportunity to stand on the Senate floor and say this is egregiously wrong and we deserve better. I'm standing for those people. I recognize that a compromise was struck and that's a very difficult thing given what was presented to the Legislature. I understand that and I appreciate it, but I think that these amendments really call out for attention because we are voicing those people who really think that this not a complicated situation at all, but something that is very disheartening to them. I would hope that you would defeat the pending motion and go along with addressing going back to our promises that we have made for so many people who have worked so hard for so many years and fulfilling that promise to them and not giving a tax break to people who have not been anticipating that. Thank you very much, Mr. President.

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

Senator PATRICK: Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, hopefully I can be fairly brief. Where did the budget come from? The blueprint for the budget comes from the Chief Executive and he hands it over to the Legislature. The problem with the tax break, in my mind, started on the second floor. The robbing Peter to pay Paul, to me, was a great analogy as far as I'm concerned. I would like to correct one issue from the Senator from York. It's not \$400,000 at the end of the tail; it's going to be \$400 million at the end of the tail, which is significantly higher. We hear about the

tax breaks and it sounds to me like it's almost like this tax break is venture capital for the State of Maine. From what my understanding is, it's a couple of hundred dollars for the poor people on the bottom end of the spectrum and it's going to be several thousands dollars for the more fortunate at the top end of the thing. One of the things that bothers me the most about this whole thing is having the opportunity to sit here, and given the ability by the citizens of Senate District 14, I can rail at anything I want to as long as it's not too bad and as long as I don't skate across the line. That being said, from this very Chamber I've heard numerous people say we have a moral obligation, a moral obligation to pay our bills, to pay the hospitals. We had no problem paying the hospital and the hospital happens to be a business. Yes, do we have to have a moral obligation to pay our bills? Absolutely, folks. I remember one time after someone said we have a moral obligation I got up and said, "Well I hope and pray that you will join me when the time comes that we must pay our moral obligation to the benefits that have already been earned by our teachers and State workers." It's hard to believe that the Senator from York and I are on the same page. It seems like we're always on the opposite sides of issues, but this time she's absolutely right. The promises that were made to our teachers and to our State workers are not going to be met with this budget and I feel bad that it's not going to happen. I have a daughter who wants to get in to become a teacher. She is one of the most beautiful people I've met in my whole life. Really compassionate. Wants to get into teaching. I'm saying to myself, or saying to Emily, "Boy, I think you're making a wrong mistake because the shift and shaft is going to happen more and more down the road." We look down 2013 - 2014, that economy is going to start percolating, as they say. I'll tell you one thing right now, my cup used to be half full. Knowing the bond situation within the country, just yesterday I heard the municipal bond, there is going to be a huge crisis with that. I can't see where the American economy is going to pick up very much because all we're doing is giving tax breaks to big businesses and finding ways for them to develop more wealth. With that I'll just say I likewise know the numbers and stuff, but I'm going to get up for thousands telephone calls, thousands of e-mails, the opportunity for me to go to the schools and talk to the teachers and State workers, that I will be voting against the Indefinite Postponement. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "E" (S-321) to Committee Amendment "A" (H-620). 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 (#259)

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

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFSKY, GOODALL, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "E" (S-321) to Committee Amendment "A" (H-620), **PREVAILED**.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "F" (S-322) to Committee Amendment "A" (H-620) **READ**.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment is somewhat similar to the good Senator from Cumberland, Senator Bartlett's amendment where it goes to move the cap from \$20,000 to \$25,000. Where it differs is that it restores the circuit breaker and it also fully restores the revenue sharing. It pays for it all out of the liquor contract. I think that is a good thing because the revenue sharing is certainly going to affect all of our residents, all of our constituents, when they are screaming about their property tax, which we all hear. This is money going back to those towns to lower the property tax and the circuit breaker. We've heard where we don't want to encumber the liquor contract, which I understand the reason behind that, but I think is a good thing to encumber it with. I think that giving property tax relief to our constituents, which this truly will do, there is no doubt about it, it's going to lower property taxes, I think that's a good reason to do it. The good Senator talked about all the things we could use it for and this is certainly something that we could use it for. Property tax relief would be huge. I want to say before I start into all of it that, I want to thank the good Senator Rosen, I want to thank the good Senator Hill, and I want to thank the good Senator Katz, despite his not liking my choice of music. I know that they did work very hard and I realize that tremendously. I understand what a tough job it was and they did make the budget better. They truly did make it better. For that, I do thank you. I think, and I don't know, you were kind of hamstrung by parameters that could work with, maybe the liquor contract being one of them. I don't know, but I think that it could have been made even better, more palatable for the people in the state of Maine. I don't know if it would have taken more time or what. I remember last week a debate that we have in here where the good Senator from Waldo, Senator Thibodeau, spoke about people in this Body being a product of their environment, of their district. I think he was spot on, at least he was spot on for me. I listened to his debate and I told him afterwards that I thought that he did an awesome job in framing how he sees his district. I see that same thing. I see that there are people out there that have a hard time. There are people that are poor. I think this budget is going to hurt some of them. The people that I see it hurting are people that are very close to me. I spoke earlier, not in here but in a different setting, about when I was young, I think in 1980. I was in 7th grade and my mother finally received her teaching degree. We had had a hard time. She was recently divorced and it was really tight. I can remember a lot of nights wondering about if we were going to run out of oil and stuff like that. It's not so much for me, but it

bothers me that people would have to worry about things like that. I remember when she got her teaching degree and she finally got a job and her first contract was for \$14,600. I remember thinking that she was going to be alright. At whatever age I was, 11 or 12 years old, I found out how little \$14,600 really was. Now we're talking about people 20 years later, that their pension is \$19,000, which I'm sure with inflation and all that for all that time is probably \$14,600 in 1980 dollars. I really don't know, but it is pretty close regardless. That's what we're asking, these people to take a cut. It's not as it was portrayed earlier, going toward the retirement system. The money is actually going towards these tax breaks. It's going for tax breaks that cost \$150 million this session, \$50 million more in other years, and other tax breaks that have a \$400 million tail. We heard about the current retirement system, the payments we're going to be squishing down all other programs. This \$200 million now and \$400 million later, that's going to be squishing down a lot of programs in those years too. I am very, very reluctant, despite the awesome work, because you did restore so many things and I understand that, but I'm still so very reluctant. Mr. Marquis was my biology teacher and a super nice guy. To see him and be able to look him in the face and say that I cut his retirement funds. I just can't do that to people. I can't look them in the face with good conscience and, after 30 or 40 years of teaching, tell them that I had to take away part of their retirement so that some other people could get tax breaks. On top of that, I'm going to be part of the reason why their property taxes went up because I'm not funding revenue sharing. I don't really know what to say. I know that it's been talked about, the bi-partisan effort and all of that, and I understand that. I understand what it's like to get that and what a good thing that is. In the last session, in the 124th, we had a bi-partisan effort in the budget and I didn't like that one either. It's nothing personal. I stood on this floor, I stood over there where Senator Whittemore stands, and I said I'm going to support this and I'm going to hold my nose, but don't ask me to take money out of people's pockets again because I can't do it. Here we are again. I don't know. I just don't know. I haven't been on Appropriations. I don't understand. I can't understand, you might have been hamstrung with something and maybe this is all you could do. I appreciate that, but it seems that the starting point was such an awful place to be, such a mean place to be, and it seems like State workers and teachers had to take it regardless. I just can't do that. For all your hard work, I appreciate that, but I just can't face those people when I go home that are making \$19,000 a year and aren't living fat on the hog. They just aren't. For all your work, thank you, but I'm here saying that this is an amendment that would give the tax breaks. It would restore revenue sharing and give the circuit breaker back and it would give that cap to at least \$25,000. I think most people would be made whole. It is on a contract that we know we should be getting at least \$120 million. The money is there. I understand the part about encumbering, but we're going to spend it on things anyways and I think the revenue sharing is certainly an appropriate place to spend it on.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "F" (S-322) to Committee Amendment "A" (H-620).

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

Senator **ROSEN**: Thank you Mr. President. First of all I'd like to express to the Senator from Aroostook, Senator Jackson, my appreciation for the items in the amendment. There are a lot of good things in here. Many of you may not realize this, but in many ways the Senator from Aroostook, Senator Jackson, is our 14th member in the committee. A lot of evenings when we were in there at 10 o'clock or 11 o'clock or midnight, he'll wander in and keep an eye on us and spend some time. We see you as an honorary member down there and appreciate your company.

Just a couple of quick points. Even with the proposal in the budget, there will be more revenue sharing funds flowing to the communities during the biennium than the last. I think that's important to note. As I said earlier, pulling in \$120 million from the liquor contract in this biennium rather than the \$20 million that we're suggesting in the budget is just far beyond what we think is responsible or that we're comfortable with. That becomes a very large one time payment and, again, we would much prefer to keep that initial payment as modest as possible and to provide an ongoing revenue stream. Thank you, Mr. President.

On motion by Senator **ROSEN** of Hancock, Senate Amendment "F" (S-322) to Committee Amendment "A" (H-620)
INDEFINITELY POSTPONED.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "B" (S-313) to Committee Amendment "A" (H-620)
READ.

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

Senator **SCHNEIDER**: Thank you Mr. President. Men and women of the Senate, there was a set-aside for some security funds to the tune in the first year of the biennium of \$244,974 and then in the second year \$301,149. This amendment, what it does is it deappropriates that from the public safety department, which falls under the State House operations, and it puts it towards the courts. The reason why I did this was that every time the Chief Justice has come to speak on the court system, I think every single time she has mentioned that they do not have the necessary funds for appropriate security measures. I know that there are concerns about the security measures under the Dome. However I think that it's much more critical, given the situation in our courts, that we direct funds, if we're going to put things towards security, that we put the funds towards the security in the courts. There is no fiscal impact to the budget. It's redirecting the funds to the Judiciary so that they can provide funds for five deputy marshal positions, effective August 1, 2011, to provide court security. I just think this is about priorities and, for me, clearly, I think, there is a much more pressing need for the courts to have security than it is for us. I would hope that you would support this amendment and vote for the pending motion.

Senator **ROSEN** of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-313) to Committee Amendment "A" (H-620).

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

Senator **ROSEN**: Thank you Mr. President. I would just like to point out that during the budgeting process the Legislative

Council did review the legislative budget and they did offer up nearly \$8 million of savings that have been applied to the global budget. We very much appreciate that effort and wish that you support the Indefinite Postponement of this amendment. Thank you very much.

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

Senator **SCHNEIDER**: Thank you Mr. President. Men and women of the Senate, I think that is laudable that we took that step as a Legislature to reduce the legislative budget. I commend us for stepping up to the plate and taking that hit. I also think that if we're going to set-aside a big chunk of money for security that it is still a better use of those funds to apply it towards security at our courts. I would ask for a roll call and hope that you defeat the pending motion.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "B" (S-313) to Committee Amendment "A" (H-620). 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 (#260)

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

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, JACKSON, MCCORMICK, PATRICK, SCHNEIDER, SHERMAN, SULLIVAN

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-313) to Committee Amendment "A" (H-620), **PREVAILED.**

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

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

Senator DILL: Thank you Mr. President. Men and women of the Senate, I, too, want to join in thanking the Appropriations Committee members for all their hard work and I congratulate you on reaching a unanimous committee report on this budget.

On motion by Senator DILL of Cumberland, Senate Amendment "G" (S-323) to Committee Amendment "A" (H-620) READ.

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

Senator DILL: Thank you Mr. President. This amendment lowers taxes by \$104 million for 479,000 families, targeting larger tax cuts to middle and lower income families and putting money into the pockets of working people. This amendment reflects the alternative tax cut proposal that was presented by the Democrats on the Taxation Committee. Specifically, the amendment does the following. It reduces the income tax by increasing all income tax brackets by 5%. It expands the Earned Income Credit by 10% and makes it refundable. It accepts changes to Section 179, expensing, allowing conformance with federal law, which allows smaller businesses to write off expenditures that normally would be amortized over the life of the asset. It also restores cuts to the circuit breaker program, restores municipal revenue sharing gradually, keeps the estate tax at the current level of \$1 million exemption but allows the so-called QTIP, which is the qualified terminal interest property, to conform fully to federal law in 2012, which provides relief to spouses. The reason why I present this amendment is because of my fundamental difference of opinion regarding the premise of the proposed budget, and that is that first of all that Maine needs to implement what is very much like the Bush tax cuts in order to stimulate the economy. I would just note that recently the Council on State Taxation, otherwise known as COST, commissioned a study that was performed by Ernst and Young that ranked Maine as number one in business tax competitiveness. Number one. We have the lowest taxes on business investments. Contrasting the budget proposal with this amendment, I'd like you to ask yourself what makes the most economic sense, putting the greatest dollars in households most likely to spend in the Maine economy and providing more money to the people in Maine who need it most or giving the greatest share of reductions to people least likely to spend it in Maine? The Appropriations Committee budget gives households in the bottom 20% an average of \$9 back in taxes, for those who get any reduction at all, while at the same time cutting property tax circuit breaker programs by 20%. In contrast, this amendment provides an average tax reduction of \$23 for more of these households and restores 20% of the cuts in the circuit breaker program, which benefits 70,000 Maine residents. The Appropriations Committee budget gives \$20 million in 2013 to the top 1% for average benefits of over \$3,000 for households making over \$356,000. It gives \$67 million in tax reductions to those in the top 10% who make over \$117,000 in reductions averaging just under \$1,000. This amendment, by contrast, gives only \$26 million to the top 10%, averaging \$38, and the top 1% only \$400,000 at an average of \$54. The Appropriations Committee budget benefits about 550 to 600 of the largest estates in Maine, while this amendment does not give away \$30 million a year in revenue in 2014 and 2015 this way. I'm going to skip some of this because a lot of people have touched on these points and I know it's late. The budget, unfortunately, digs a large, and in my view, unconscionable hole for the next

Legislature to fill, threatening even deeper cuts in essential program while not targeting the tax reductions to those who need them most. This amendment puts the greatest amount of dollars in households most likely to spend this money in the Maine economy. I urge your support of this amendment. Thank you very much, Mr. President.

Senator ROSEN of Hancock moved to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-323) to Committee Amendment "A" (H-620).

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

Senator ROSEN: Thank you Mr. President. I appreciate the amendment putting forward the Minority Report from the Taxation Committee. I would remind the members that, as we mentioned earlier in the evening, all the policy committees worked particularly hard to review their portion of the budget and there were a variety of divided proposals that came back to us. There was a tremendous amount of effort in Health and Human Services, the Transportation Committee, there were issues within the Education Committee, and in the end we were asking all those members to compromise on much of what we see in this budget. Many of the individual members stood behind the Majority Reports and Minority Reports. They came back to Appropriations and then they were modified in this process. We ask the members that have so much invested in this particular report from Taxation to understand the give and take of the process, the art of compromise, and the ability to come together behind one package. We've asked that of the other policy committees and we ask it of the Taxation Committee as well.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen to Indefinitely Postpone Senate Amendment "G" (S-323) to Committee Amendment "A" (H-620). 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 (#261)

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

NAYS: Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **ROSEN** of Hancock to **INDEFINITELY POSTPONE** Senate Amendment "G" (S-323) to Committee Amendment "A" (H-620), **PREVAILED**.

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, with all of the conversation tonight, I thought I wanted to stand and say something before the roll call was taken. After having spent six years on Appropriations, I must admit that I have a great affinity and appreciation for the work and the negotiations that go on down there. When the negotiations started I said, publicly, they cannot fix this budget enough for me to vote for it because the distance was so far apart. I couldn't imagine in my wildest dreams that they could come together, or come close enough, for me to vote on this. I am compelled to stand tonight and say that a lot of my worries have been put to rest. We spent hours and hours on the Committee on Health and Human Services rifting through the suggested destructive cuts. I think the worse I can call it is the destructive suggestions for undermining the programs that we have in place in the state of Maine for our most vulnerable citizens. I am delighted that so many of them have been returned. The Fund for a Healthy Maine has been reinstated almost completely. Early visiting for newborns, legal citizens benefits have been really greatly improved, and I think that the committee has done yeoman's work on the unbelievable wide gap that had loomed ahead of us. I stand in support of the pending motion. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636) and Senate Amendment "H" (S-324) thereto, in Non-Concurrence. 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 (#262)

YEAS: Senators: **ALFOND, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE**

NAYS: Senators: **BARTLETT, DILL, JACKSON, PATRICK, SULLIVAN, WOODBURY**

29 Senators having voted in the affirmative and 6 Senators having voted in the negative, Committee Amendment "A" (H-620) as Amended by House Amendment "A" (H-636) and Senate Amendment "H" (S-324) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-620) AS AMENDED BY HOUSE AMENDMENT "A" (H-636) AND SENATE AMENDMENT "H" (S-324)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

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

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

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Thursday, June 16, 2011, at 10:00 in the morning.