

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Sixth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 5, 2012

beginning at Page 1

**FSTATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
May 23, 2013

Senate called to order by President Justin L. Alfond of Cumberland County.

Prayer by Reverend Scott Townsend, Calvary Baptist Church in Warren.

REVEREND TOWNSEND: Lord, Jesus, I bring before You this morning these men and women who have been given this great responsibility by the citizens of the state of Maine. They need Your help. They need Your wisdom. They face incredible challenges. You have called all who work in government your ministers for good. Would You help these people to do good today for the people of the state of Maine and for Your holy name. Amen.

Pledge of Allegiance led by Senator Troy D. Jackson of Aroostook County.

Reading of the Journal of Wednesday, May 22, 2013.

Doctor of the day, Barbara Covey, MD of Oakland.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by Senator **GOODALL** of Sagadahoc, the following Joint Order:
S.P. 593

Ordered, the House concurring, that when the Senate adjourn they do so until Tuesday, May 28, 2013, at 10:00 in the morning and House adjourn until 9:00 in the morning.

READ and PASSED.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act Concerning Fertilizer and Lime Products" (EMERGENCY)

H.P. 707 L.D. 1009
(C "A" H-170)

In Senate, May 20, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-170)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-170) AS AMENDED BY HOUSE AMENDMENT "A" (H-218)** thereto, in **NON-CONCURRENCE**.

Senator **JACKSON** of Aroostook moved the Senate **RECEDE** and **CONCUR**.

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

Senator **JACKSON:** Thank you Mr. President. I just wanted to read something on the record so there might not be any confusion. In 2009 the Legislature created a more aggressive fertilizer testing program in order to provide our farmers with accurate and timely analysis of increasingly expensive granular fertilizer products. This bill simply clarifies the legislative intent by correcting language to make it clear that this testing and the accompanying fees and reporting requirements do not apply to industrial bi-products that are already highly regulated by DEP for content, storage, testing, and reporting of agronomic utilization. Thank you very much, Mr. President.

On motion by Senator **JACKSON** of Aroostook, the Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication: S.C. 372

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

May 21, 2013

The Honorable Justin L. Alfond
President of the Senate of Maine
126th Maine State Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Everett Worcester of Orneville, for appointment to the Land Use Planning Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	2	Jackson of Aroostook, Sherman of Aroostook
	Representatives	6	Dill of Old Town, Black of Wilton, Cray of Palmyra, Marean of Hollis, Noon of Sanford, Timberlake of Turner
NAYS	Senators	0	
	Representatives	3	Hickman of Winthrop, Jones of Freedom, Saucier of Presque Isle
ABSENT		2	Sen. Boyle of Cumberland, Rep. Kent of Woolwich

Eight members of the Committee having voted in the affirmative and three in the negative, it was the vote of the Committee that the nomination of Everett Worcester of Orneville, for appointment to the Land Use Planning Commission be confirmed.

Signed,

S/Troy D. Jackson
Senate Chair

S/James F. Dill
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 126th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#101)

YEAS: Senators: None

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

ABSENT: Senator: THOMAS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Everett Worcester** of Orneville for appointment to the Land Use Planning Commission of Trustees was **CONFIRMED**.

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

The Following Communication: S.C. 373

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

May 21, 2013

The Honorable Justin L. Alfond
President of the Senate of Maine
126th Maine State Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Agriculture, Conservation and Forestry has had under consideration the nomination of Gwendolyn R. Hilton of Starks, for appointment to the Land Use Planning Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

Signed,

S/David E. Dutremble
Senate Chair

S/Michael A. Shaw
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INLAND FISHERIES AND WILDLIFE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 126th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#103)

YEAS: Senators: None

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

ABSENT: Senator: THOMAS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Donald F. Dudley** of Patten for appointment to the Inland Fisheries and Wildlife Advisory Council was **CONFIRMED**.

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

The Following Communication: S.C. 375

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 21, 2013

The Honorable Justin L. Alfond
President of the Senate of Maine
126th Maine State Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Inland Fisheries and Wildlife has had under consideration the nomination of Gunnar J. Gundersen of Walpole, for appointment to the Inland Fisheries and Wildlife Advisory Council.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Dutremble of York, Burns of Washington, Haskell of Cumberland
	Representatives	10	Shaw of Standish, Briggs of Mexico, Crafts of Lisbon, Davis of Sangerville, Espling of New Gloucester, Evangelos of Friendship, Kusiak of Fairfield, Marks of Pittston, Short of Pittsfield, Wood of Sabattus
NAYS		0	
ABSENT		0	

Thirteen members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of Gunnar J. Gundersen of Walpole, for appointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Signed,

S/David E. Dutremble
Senate Chair

S/Michael A. Shaw
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INLAND FISHERIES AND WILDLIFE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 126th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#104)

YEAS: Senators: None
NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

ABSENT: Senator: THOMAS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Gunnar J. Gundersen** of Walpole for appointment to the Inland Fisheries and Wildlife Advisory Council was **CONFIRMED**.

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

The Following Communication: S.C. 376

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate of Maine
126th Maine State Legislature
State House
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Inland Fisheries and Wildlife has had under consideration the nomination of Richard A. Fortier of Caribou, for appointment to the Inland Fisheries and Wildlife Advisory Council.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS Senators 3 Dutremble of York, Burns of Washington, Haskell of Cumberland

Representatives 10 Shaw of Standish, Briggs of Mexico, Crafts of Lisbon, Davis of Sangerville, Espling of New Gloucester, Evangelos of Friendship, Kusiak of Fairfield, Marks of Pittston, Short of Pittsfield, Wood of Sabattus

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of Richard A. Fortier of Caribou, for appointment to the Inland Fisheries and Wildlife Advisory Council be confirmed.

Signed,

S/David E. Dutremble
Senate Chair

S/Michael A. Shaw
House Chair

READ and ORDERED PLACED ON FILE.

The President laid before the Senate the following: "Shall the recommendation of the Committee on **INLAND FISHERIES AND WILDLIFE** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 126th Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#105)

YEAS: Senators: None

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

ABSENT: Senator: THOMAS

No Senator having voted in the affirmative and 34 Senators having voted in the negative, with 1 Senator being absent, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Richard A. Fortier** of Caribou for appointment to the Inland Fisheries and Wildlife Advisory Council was **CONFIRMED**.

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

The Following Communication: S.C. 377

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Steven L. Weems of Brunswick for reappointment to the Midcoast Regional Redevelopment Authority.

Pursuant to Title 5, MRSA §13083-I, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 378

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Dale C. Crowley of Addison for appointment to the Washington County Development Authority.

Pursuant to Title 5, MRSA §13083-C, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 379

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Michael H. Clarke of Bath and Abigail C. Yacoben of West Bath for appointment to the Maine Labor Relations Board.

Pursuant to Title 26, MRSA §968, these appointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 380

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Ronald P. Green, Jr. of Plymouth for reappointment to the Workers' Compensation Board.

Pursuant to Title 39-A, MRSA §151, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 381

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating the following to the Board of Trustees, Maine Maritime Academy:

Jason A. Oney of Falmouth, appointment
Morten Arntzen of New Canaan, Connecticut, reappointment
Arthur K. Watson, Jr. of New Canaan, Connecticut, reappointment
Robert D. Somerville of Spring, Texas, reappointment

Pursuant to P&SL 1975, Chapter 771 §428, this appointment and these reappointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 382

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Michael Timmons of Cumberland for appointment to the State Harness racing Commission.

Pursuant to Title 8, MRSA §261-A, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Agriculture, Conservation and Forestry.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 383

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating John E. Dority of Augusta for reappointment to the Maine Turnpike Authority, Board of Directors.

Pursuant to Title 23, MRSA §1964-A, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Transportation.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 384

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 21, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Ronald M. Bancroft of Cumberland for appointment to the Board of Trustees, Maine Public Broadcasting Corporation.

Pursuant to PL 1997, Chapter 599 this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 385

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Orland G. McPherson of Eliot for reappointment to the State Liquor and Lottery Commission.

Pursuant to Title 5, MRSA §283-A, this reappointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 386

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Daniel G. Casavant of Waterville for appointment and Rebecca A. Grant of Augusta for reappointment to the State Civil Services Appeals Board.

Pursuant to Title 5, MRSA §7081, this appointment and this reappointment are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on State and Local Government.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 387

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Shirrin L. Blaisdell of Manchester for appointment to the Board of Trustees, Maine Public Employees Retirement System.

Pursuant to Title 5, MRSA §17102, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Appropriations and Financial Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 388

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Margaret E. Matheson of Augusta and Michael T. Healy of Freeport for reappointment to the Commission on Governmental Ethics and Election Practices.

Pursuant to Title 1, MRSA §1002, these reappointments are contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Veterans and Legal Affairs.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 389

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating Carleton L. Barnes of Calais for appointment to the State Board of Corrections.

Pursuant to Title 34-A, MRSA §1802, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Criminal Justice and Public Safety.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 390

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating William P. Logan of Augusta for appointment to the Maine Commission on Indigent Legal Services.

Pursuant to Title 4, MRSA §1803, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Judiciary.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 395

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

May 22, 2013

The Honorable Justin L. Alford
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Alford,

This is to inform you that I am today nominating John D. Murphy of Fort Kent for appointment to the Maine Educational Loan Authority.

Pursuant to Title 20-A, MRSA §11415, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 391

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

May 21, 2013

Honorable Justin L. Alford, President of the Senate
Honorable Mark W. Eves, Speaker of the House
126th Legislature
State House
Augusta, Maine 04333

Dear President Alford and Speaker Eves:

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

- | | |
|-----------|---|
| L.D. 19 | An Act To Facilitate Access to Information by Legislators |
| L.D. 217 | An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Access to Records Relating to Public-private Partnerships |
| L.D. 258 | An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Meetings of Public Bodies |
| L.D. 420 | An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions |
| L.D. 684 | An Act To Make Bylaws and Minutes of Board Meetings of Publicly Funded Hospitals Subject to the Freedom of Access Act |
| L.D. 1091 | An Act To Require Nonprofit Corporations To Disclose the Salaries of Their Employees |

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

Sincerely,

S/Sen. Linda M. Valentino
Senate Chair

S/Rep. Charles R. Priest
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 392

**STATE OF MAINE
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 21, 2013

Honorable Justin L. Alford, President of the Senate
Honorable Mark W. Eves, Speaker of the House
126th Legislature
State House
Augusta, Maine 04333

Dear President Alford and Speaker Eves:

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

- | | |
|-----------|---|
| L.D. 1405 | An Act To Repeal the Laws Establishing the Cumberland County Recreation Center and Transfer Authority to Cumberland County |
| L.D. 1459 | Resolve, Directing the Maine Library of Geographic Information Board To Convene a Stakeholder Group To Study the Feasibility of Using Maine's GeoLibrary GeoPortal for a Pilot Project That Involves Geographic Information Systems Trail Mapping |

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

Sincerely,

S/Sen. Colleen M. Lachowicz
Senate Chair

S/Rep. Anne P. Graham
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 393

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

May 21, 2013

Honorable Justin L. Alford, President of the Senate
Honorable Mark W. Eves, Speaker of the House
126th Legislature
State House
Augusta, Maine 04333

Dear President Alford and Speaker Eves:

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

L.D. 435 Resolve, To Require the State Tax Assessor To Develop Agreements with Online Retailers for the Collection of Sales and Use Tax

L.D. 989 An Act To Conform the Maine Tax Laws for 2012 to the United States Internal Revenue Code (EMERGENCY)

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

Sincerely,

S/Sen. Anne M. Haskell
Senate Chair

S/Rep. Adam A. Goode
House Chair

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

The Following Communication: S.C. 394

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

May 21, 2013

Honorable Justin L. Alford, President of the Senate
Honorable Mark W. Eves, Speaker of the House
126th Legislature
State House
Augusta, Maine 04333

Dear President Alford and Speaker Eves:

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

L.D. 53 An Act To Increase Voting Access

L.D. 702 An Act To Strengthen the Law Prohibiting Black Market Wagering on Harness Horse Races

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

Sincerely,

S/Sen. John L. Tuttle
Senate Chair

S/Rep. Louis J. Luchini
House Chair

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

The Following Communication: H.C. 175

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

May 22, 2013

Honorable Darek M. Grant
Secretary of the Senate
126th Maine Legislature
Augusta, Maine 04333

Dear Secretary Grant:

House Paper 262, Legislative Document 387, "Resolve, To Direct the Department of Health and Human Services To Study the Ongoing Need for Rental Subsidies to Provider Agencies," having been returned by the Governor, together with objections to the same, pursuant to Article IV, Part Third, Section 2 of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Resolve become a law notwithstanding the objections of the Governor?"

88 voted in favor and 55 against, and accordingly it was the vote of the House that the Resolve not become a law and the veto was sustained.

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Provide That Innkeepers and Certain Campground Operators Are Not Considered Landlords" (EMERGENCY)
H.P. 909 L.D. 1270

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.

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Limit the Amount a School Administrative Unit May Spend without Voter Approval"
H.P. 458 L.D. 666

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-217)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-217)**.

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

READ ONCE.

Committee Amendment "A" (H-217) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Restore MaineCare Coverage for Ambulatory Surgical Center Services" (EMERGENCY)
H.P. 265 L.D. 390

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-215)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-215)**.

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

READ ONCE.

Committee Amendment "A" (H-215) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit Unfair Discrimination in Long-term Care Insurance"
H.P. 121 L.D. 146

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-211)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-211)**.

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

READ ONCE.

Committee Amendment "A" (H-211) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Streamline the Approval of Accessibility Structures" (EMERGENCY)
H.P. 130 L.D. 155

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-222)**.

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

READ ONCE.

Committee Amendment "A" (H-222) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act To Provide Transparency in Public-private Partnerships for Transportation Projects"

H.P. 493 L.D. 721

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-212)**.

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

READ ONCE.

Committee Amendment "A" (H-212) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act To Update and Clarify the Laws Governing the Operation of Bicycles on Public Roadways"

H.P. 1045 L.D. 1460

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-221)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-221)**.

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

READ ONCE.

Committee Amendment "A" (H-221) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act To Streamline the Laws Related to Transportation"

H.P. 1049 L.D. 1464

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-220)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-220)**.

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

READ ONCE.

Committee Amendment "A" (H-220) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Clarify the Law Concerning the Threatening Display of Dangerous Weapons"
H.P. 255 L.D. 380

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-204)**.

Signed:

Senators:

GERZOFSKY of Cumberland
DUTREMBLE of York

Representatives:

DION of Portland
CASAVANT of Biddeford
KAENRATH of South Portland
LAJOIE of Lewiston
MARKS of Pittston
PEASE of Morrill
PLANTE of Berwick

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

Signed:

Senator:

PLUMMER of Cumberland

Representatives:

LONG of Sherman
TYLER of Windham
WILSON of Augusta

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-204)**.

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Prohibit the Enforcement of Federal Law Placing Restrictions on Firearms or Ammunition" H.P. 827 L.D. 1183

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

Signed:

Senators:

GERZOFISKY of Cumberland
DUTREMBLE of York
PLUMMER of Cumberland

Representatives:

DION of Portland
CASAVANT of Biddeford
KAENRATH of South Portland
LAJOIE of Lewiston
MARKS of Pittston
PEASE of Morrill
PLANTE of Berwick
TYLER of Windham

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

Signed:

Representatives:

LONG of Sherman
WILSON of Augusta

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Allow Municipalities To Stock Ponds" H.P. 82 L.D. 100

H.P. 82 L.D. 100

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-214)**.

Signed:

Senator:

BURNS of Washington

Representatives:

CRAFTS of Lisbon
DAVIS of Sangerville
EVANGELOS of Friendship
KUSIAK of Fairfield
SHORT of Pittsfield
WOOD of Sabattus

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

Signed:

Senators:

DUTREMBLE of York
HASKELL of Cumberland

Representatives:

SHAW of Standish
BRIGGS of Mexico
ESPLING of New Gloucester
MARKS of Pittston

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

Reports **READ**.

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

On motion by Senator **KATZ** of Kennebec, 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 (#106)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, CUSHING, DUTREMBLE, GERZOFISKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, TUTTLE, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, FLOOD, KATZ, LANGLEY, MASON, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **DUTREMBLE** of York to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Increase Agent Fees for Registration of Certain Recreational Vehicles"
H.P. 317 L.D. 467

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

Signed:

Senator:
BURNS of Washington

Representatives:
SHAW of Standish
CRAFTS of Lisbon
DAVIS of Sangerville
ESPLING of New Gloucester
MARKS of Pittston
SHORT of Pittsfield
WOOD of Sabattus

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-213)**.

Signed:

Senators:
DUTREMBLE of York
HASKELL of Cumberland

Representatives:
BRIGGS of Mexico
EVANGELOS of Friendship
KUSIAK of Fairfield

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Regarding Subrogation of Medical Payments Coverage"

H.P. 507 L.D. 756

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

Signed:

Senators:
WHITTEMORE of Somerset
WOODBURY of Cumberland

Representatives:
COOPER of Yarmouth
DOAK of Columbia Falls
FITZPATRICK of Houlton
McCLELLAN of Raymond
WALLACE of Dexter

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-203)**.

Signed:

Senator:
GRATWICK of Penobscot

Representatives:
TREAT of Hallowell
BECK of Waterville
MORRISON of South Portland
PRINGLE of Windham

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-203)**.

Reports **READ**.

Senator **GRATWICK** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Amend the Authorized Hours during Which Liquor May Be Sold and Purchased"
H.P. 19 L.D. 15

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-216)**.

Signed:

Senators:
TUTTLE of York
PATRICK of Oxford

Representatives:

LUCHINI of Ellsworth
BEAULIEU of Auburn
FOWLE of Vassalboro
KINNEY of Limington
LONGSTAFF of Waterville
RUSSELL of Portland
SAUCIER of Presque Isle
SCHNECK of Bangor

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

Signed:

Senator:

MASON of Androscoggin

Representatives:

GIFFORD of Lincoln
JOHNSON of Eddington

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

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-216)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-216) **READ** and **ADOPTED**, in concurrence.

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

Senate

Ought to Pass

Senator PATRICK for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Motor Fuel Distribution and Sales Act"
S.P. 479 L.D. 1360

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

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

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

Ordered sent down forthwith for concurrence.

Ought to Pass As Amended

Senator BOYLE for the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Improve Efficiency in the Collection of Beverage Containers"
S.P. 362 L.D. 1080

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-116)**.

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

READ ONCE.

Committee Amendment "A" (S-116) **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.

Senator GRATWICK for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Make Records of External Review Proceedings Overseen by the Bureau of Insurance Confidential"
S.P. 239 L.D. 648

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-113)**.

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

READ ONCE.

Committee Amendment "A" (S-113) **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.

Senator PATRICK for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Streamline, Amend and Clarify Certain Professional and Occupational Licensing Statutes"
S.P. 292 L.D. 867

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-115)**.

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

READ ONCE.

Committee Amendment "A" (S-115) **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.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Establish the Mobile Crime Laboratory Fund"

S.P. 238 L.D. 647

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

Signed:

Senator:

PLUMMER of Cumberland

Representatives:

DION of Portland
KAENRATH of South Portland
LAJOIE of Lewiston
LONG of Sherman
MARKS of Pittston
PEASE of Morrill
TYLER of Windham
WILSON of Augusta

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-112)**.

Signed:

Senators:

GERZOFISKY of Cumberland
DUTREMBLE of York

Representatives:

CASAVANT of Biddeford
PLANTE of Berwick

Reports **READ**.

On motion by Senator **GERZOFISKY** of Cumberland, the Minority **OUGH TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-112) **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.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Establish the Computer Crimes Unit Fund and Authorize the Department of Public Safety To Accept Donations for the Fund"

S.P. 428 L.D. 1234

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

Signed:

Senator:

PLUMMER of Cumberland

Representatives:

DION of Portland
CASAVANT of Biddeford
KAENRATH of South Portland
LAJOIE of Lewiston
LONG of Sherman
MARKS of Pittston
PEASE of Morrill
PLANTE of Berwick
TYLER of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-114)**.

Signed:

Senators:

GERZOFISKY of Cumberland
DUTREMBLE of York

Reports **READ**.

On motion by Senator **GERZOFISKY** of Cumberland, the Minority **OUGH TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-114) **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.

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Clarify the Permitted Use of Aquatic Pesticides"

S.P. 516 L.D. 1430

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

Signed:

Senators:

BOYLE of Cumberland
GRATWICK of Penobscot
SAVIELLO of Franklin

Representatives:

WELSH of Rockport
AYOTTE of Caswell
CAMPBELL of Orrington
CHIPMAN of Portland
COOPER of Yarmouth
GRANT of Gardiner
HARLOW of Portland
LONG of Sherman
REED of Carmel

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

Signed:

Representative:

McGOWAN of York

Reports **READ**.

On motion by Senator **BOYLE** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**.

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

Ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide for Licensing of Recreational Therapists"

S.P. 443 L.D. 1281

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-117)**.

Signed:

Senators:

PATRICK of Oxford
CLEVELAND of Androscoggin

Representatives:

HERBIG of Belfast
CAMPBELL of Newfield
GILBERT of Jay
HAMANN of South Portland
MASON of Topsham
MASTRACCIO of Sanford
WINCHENBACH of Waldoboro

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

Signed:

Senator:

CUSHING of Penobscot

Representatives:

DUPREY of Hampden
LOCKMAN of Amherst
VOLK of Scarborough

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (S-117) **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.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, To Direct the Department of Economic and Community Development To Adopt Certain Eligibility Requirements Regarding Community Development Block Grants

S.P. 560 L.D. 1499

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

Signed:

Senators:

CLEVELAND of Androscoggin
CUSHING of Penobscot

Representatives:

DUPREY of Hampden
LOCKMAN of Amherst
MASON of Topsham
VOLK of Scarborough
WINCHENBACH of Waldoboro

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

Signed:

Senator:

PATRICK of Oxford

Representatives:

HERBIG of Belfast
CAMPBELL of Newfield
GILBERT of Jay
HAMANN of South Portland
MASTRACCIO of Sanford

Reports **READ**.

Senator **PATRICK** of Oxford moved the Senate **ACCEPT** the Minority **OUGHT TO PASS** Report.

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

SECOND READERS

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

Senate As Amended

Bill "An Act To Improve Insurance Coverage for Volunteer First Responders"

S.P. 71 L.D. 235
(C "A" S-76)

Bill "An Act To Ensure Accountability in State Contracts"

S.P. 406 L.D. 1169
(C "A" S-67)

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

Sent down for concurrence.

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

ENACTORS

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

Emergency Measure

An Act To Protect Title to Real and Personal Property of Public Employees and Public Officials

H.P. 167 L.D. 206
(C "A" H-174)

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

Ordered sent down forthwith.

Emergency Measure

An Act To Make the State's Uniform Commercial Code Compatible with the Federal Electronic Fund Transfer Act
S.P. 352 L.D. 1038

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

Ordered sent down forthwith.

Off Record Remarks

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 4: Rules of Practice, a Major Substantive Rule of the Department of Agriculture, Conservation and Forestry

H.P. 32 L.D. 37

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

Ordered sent down forthwith.

Acts

An Act To Update the Maine Emergency Management Laws
S.P. 121 L.D. 326
(C "A" S-73)

An Act To Allow a Municipality To Prohibit a Sex Offender from Residing within 750 Feet of a Recreational Facility

H.P. 340 L.D. 498
(C "A" H-169)

An Act Regarding Poker Runs Operated by Organizations Licensed To Conduct Games of Chance

H.P. 391 L.D. 572
(C "A" H-178)

An Act To Clarify the Laws Governing the Rule-making Authority of the Maine Forest Service

H.P. 486 L.D. 714
(C "A" H-171)

An Act To Allow Municipalities To Place Liens for Failure To Pay Storm Water Assessments

H.P. 584 L.D. 833
(C "A" H-181)

An Act To Amend Certain Provisions of Law Affecting the Judicial Branch

H.P. 603 L.D. 852
(C "A" H-176)

An Act To Increase State Wildlife Revenues and Grow the Hunting and Fishing Industries

S.P. 304 L.D. 879
(C "A" S-92)

An Act To Provide Another Alternative to the Civil Order of Arrest Process

H.P. 636 L.D. 912
(C "A" H-175)

An Act To Amend the Law Pertaining to Staff in the Office of the Attorney General

S.P. 350 L.D. 1025
(C "A" S-90)

An Act To Clarify the Appeal Process of Code Enforcement Officers and Boards of Appeal

H.P. 848 L.D. 1204
(C "A" H-173)

An Act Allowing the Harvesting of Yellow Perch with Seines

H.P. 903 L.D. 1264
(C "A" H-172)

An Act To Improve the Statutes Governing Road Associations

S.P. 475 L.D. 1356

An Act Relating to Proof of Citizenship for Renewal of a Driver's License or Nondriver Identification Card

H.P. 980 L.D. 1372
(C "A" H-179)

An Act To Ensure the Choice of a Pharmacy for Injured Employees under the Workers' Compensation Act of 1992

S.P. 483 L.D. 1376
(C "A" S-93)

An Act To Revise the Laws of the Maine Criminal Justice Academy

S.P. 518 L.D. 1432

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

Ordered sent down forthwith.

An Act To Provide Local Sales Tax Increment Disbursements

H.P. 276 L.D. 401
(C "A" H-166)

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

An Act Authorizing the Deorganization of the Town of Bancroft

S.P. 442 L.D. 1280
(C "A" S-84)

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

An Act To Strengthen Maine's Hospitals, Increase Access to Health Care and Provide for a New Spirits Contract

S.P. 589 L.D. 1546
(S "C" S-108)

On motion by Senator **KATZ** of Kennebec, 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 Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, people who are watching us at home must be a little confused because they have heard all 35 members of this Body say at one time or another that they wanted to see the hospitals paid. Each one of us has said it. We're not doing it. We're not doing it today. We're not doing it tomorrow. We're not doing it next week. I'm not sure when we're going to do it. The longer we wait, Mr. President, the better the chance becomes that we are going to suffer a \$5 million penalty because of the reduced federal match. People must be confused. Why aren't we doing what everyone here said they wanted to do? It's all because my colleagues on the Majority are insisting on linking and joining two unrelated bills. With respect to Medicaid expansion, Mr. President, again I think I speak for many of my colleagues that we are not necessarily opposed to the concept, but we do not have the information we need in order to make an intelligent decision. We're talking about expanding this program by 70,000 people. How much is it going to cost? How many are going to be covered at 100% and for how long? Not probably, not likely, not maybe, but with certainty. How many are going to be covered? If we were buying a house we wouldn't go say, "Well, we love the house. We'll take it" without knowing what the cost is going to be and

whether we could afford it. From my perspective, Mr. President, that's exactly what we do here today. We have time. There is no deadline on signing up for Medicaid expansion if we decide that that isn't the right idea. We could do it today. We could do it next month. We could do it in October. There is still plenty of time to look at these issues and also to allow the Chief Executive to continue his negotiations with the federal government about how long these people are going to be covered, whether they are all going to be covered, and maybe, Mr. President, whether we can get some flexibility that I think all of us would like to see us have within the Medicaid program to get around some of their archaic rules. We just don't know. Why would we leave tens of millions of dollars on the table? Mr. President, Legislatures and Governors of other states have understood this and have set up groups to study, briefly study, the issue of Medicaid expansion before they make this incredibly important decision. Idaho, South Dakota, Utah, Virginia, and Indiana just to mention a few. As Governor Herbert of Utah said, let's go through this thoughtful, methodical study, where we have all the information we can and then make a decision. I think that's a good path for the state of Maine, Mr. President. I urge my colleagues to vote no on the pending motion. Let's get this right. Thank you, Mr. President.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, as everyone here knows, I feel very passionately about what we're doing today. I've risen to speak many times on this issue. I would like to speak one more time. There are differences between our parties. Largely what we do in these Bodies and in this Chamber, as well as the one down the hallway, goes unnoticed because it's unanimous and undebated. Today what we have in front of us is a stark difference between the parties. That's okay. Republicans have always been opposed to the expansion of social programs to excess. That's never been a secret.

While we were debating this bill on Monday there was an article in that bastion of conservative ideology, The New York Times, that talks about the exact reason why my side of the aisle is opposed to this bill. The article was written by Robert Pear and it ran on Monday. It says, I'll just read part of it, "The Obama administration said Monday that it was cutting payments to doctors and hospitals after finding that cost overruns are threatening to use up the money available in a health insurance program for people with cancer, heart disease, and other serious illnesses. The administration had predicted that up to 400,000 people would enroll in the program created by the 2010 healthcare law. In fact, about 135,000 have enrolled, but the cost of their claims has far exceeded White House estimates, exhausting most of the \$5 billion provided by Congress." Mr. President, we heard many stories during the debate about people dying and people getting sick. Nobody wants that. I think the far worse thing that we can offer people is false hope. We are seeing already that this program is far, far exceeding anticipated costs. Thirty-four per-cent of the people on this particular part of the Affordable Care Act have signed up for this part of the program, yet we haven't even reached the goal and we've already exceeded cost expectations. Mr. President, I would suggest that this is a very, very, very clear vision of things to come. The article also goes on to talk about, "Federal health officials said that the alternatives were worse. If the program runs out of money, they

said, some sick people will lose access to healthcare and others will be unable to pay for the treatments they receive, forcing doctors and hospitals to write off large amounts of uncompensated care."

This is what we were talking about earlier in the week, charity care. I heard many times that this bill, if we passed it, would be the end-all, be-all. We wouldn't have to worry about as much charity care in our hospitals. Ladies and gentlemen of the Senate and Mr. President, it's already happening. It happened on Monday while we were talking about this bill. Mr. President, this is an expansion to 70,000 Mainers. It's huge. We cannot go into it lightly. I think that I've already made my point that this is not going to be free. This will cost us money. The department has estimated that it could cost up to a billion dollars over the first decade of the program. We have to look at this in the future because, as we know, once you start a program it's very, very hard to stop it. We don't even know which populations on MaineCare will be covered at 100%. We don't have definitive answers from CMS. We can't even afford the program that we have today. The MaineCare program that we have today is taking people on Section 21 and 29 waiting lists, people with severe cognitive disabilities that cannot even feed themselves. We have thousands of people on those wait lists and we are not giving them the services that they deserve, yet we want to add thousands, tens of thousands, of able bodied Mainers to the rolls. I don't think our priorities are in the right place, Mr. President.

I'll close, Mr. President, with just saying this, I'm very disappointed that this bill is up for the vote today. I really hope that it doesn't go forward. There are proposals on the table that can get the job done with the hospitals and we can debate the Medicaid expansion at a different time and let it stand on its own merits. Mr. President, I plead with you and the members of your caucus that we turn this back, we do what's right for the people of Maine, and we can put our state on a sound footing by paying the hospitals and we can talk about Medicaid another time. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I proudly made the motion to link the Medicaid expansion a week or so ago and I did it for what I believe were the right reasons. Covering 70,000 working men and women living on the margins. It's ironic these 70,000 people last year we gave the biggest tax cut in Maine's history and these 70,000 people do not have to pay taxes any more. They got about \$60 or \$70.

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

Senator **CUSHING:** Thank you Mr. President. Point of order. Are we addressing the motion before us, Mr. President?

THE PRESIDENT: The Chair would remind members that we are talking about L.D. 1546 and its contents. I would urge the members to stay on the content of the bill. The member may proceed.

Senator **PATRICK:** Thank you Mr. President. I think I am because we're talking about 70,000 people getting MaineCare

expansion. It just happens to be the same 70,000 people. We have 1st Amendment rights but we can't say what we want to say on the floor of the Senate. I understand there are rules and regulations. I will say this, Mr. President and ladies and gentlemen of the Senate, we brought up all those that aren't covered. I would say shame on us. Shame on this Body, shame on the other Body, and shame on the Chief Executive because we're not doing our duty to the citizens of the state of Maine. People are dying. People are living on the margins. People's lives are on the line. We're debating whether or not it's the right thing to do. There aren't too many times that I feel ashamed of what I've done, but this is not one of them. I'm exactly proud to say that I'm willing to pay the hospitals back fully. I'm proud to say that 70,000 working poor are going to get healthcare. I will take that vote each and every day, Mr. President. I thank you for the opportunity to speak.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I guess not really being prepared, but hearing some of the debate already this morning, I just wanted to say that there seems to be a lot of mixed messages coming from one side of the aisle. We hear that we should give it more time to study this. Not really opposed to it. Then when we hear other people talk about Republicans being against expanding these social services. I don't know which it is, but it certainly seems like everything that's gone on in the last session and up to today I don't really know for sure that there is a whole lot of appetite for some people to expand the program that they've never seemed to have great affinity for. I think that today quite possibly, after 11 years, when we've talked about votes and not liking to take a vote like this, I think is probably the best vote that I'll ever take in my 11 years here. If because of this vote I am not able to get reelected and don't come back to this Body. If you want to know who the people are that you're talking about in this 70,000 you're looking at one. I'm sure that if I'm not in this Body I won't have health insurance and I quite possibly could be one of the people that would qualify for this expansion of MaineCare. I know very well who the people are because I'm one of them. I made \$11,000 last year. I think I would definitely be able to get in under a program like this. At least the people that are going to vote against this today, at least you know at least one of the people that we're talking about whenever we talk about the 70,000 people that could qualify.

I also wanted to say that it was brought up early about everyone wanting to pay the hospitals back and I agree. Everyone has said they want to pay the hospitals back. We are doing it with this bill. We're doing it 100% the way that they wanted it, or the Chief Executive wanted it. We're doing it and if anyone is not voting for the bill today they are the ones that are standing in the way of getting the hospitals paid because as soon as this bill passed and the Governor signs it the hospitals will get their money just like they wanted and just like the Chief Executive wanted. I don't want anyone to stand up here and tell me that we're not paying the hospitals back today because this bill does exactly that. If you don't vote for it then it is you, that have been saying all along that you want to pay the hospitals back, are the ones that are stopping it.

Finally, the bastion of liberal ideology. Well, that would be Governor Christie. That would be Governor Scott. All people that

I don't know that we stand shoulder to shoulder very much with, but they have looked at this deal and thought it was a great deal for their states and took it. I think that that certainly should make some people have pause when the people that certainly never seemed to want to do programs like this have taken the deal. I just want to say that Maine is such a small state that, unfortunately, we're along for the ride in a lot of these issues. This is one ride that I think Maine should be very glad to take because we're going to get a very good payment on a program that's going to make a lot of people in this state have healthcare that didn't have it before.

Just lastly, I can't help but bring it up, and I don't know if this is going to make more people rise or not, but the idea that slowing this down and that our Chief Executive is going to negotiate a better deal is just incredible to me, especially in light of what happened this morning. If I was looking for someone to sell me a TV maybe I would go to the Chief Executive, but I don't know that.

Senate at Ease.

Senate called to order by the President.

THE PRESIDENT: The Chair would advise all members, and the Chair would stress to all members, that we are talking about the contents of L.D. 1546 and to keep your remarks in L.D. 1546. The member may proceed.

Senator **JACKSON:** Thank you Mr. President. I will apologize for my disparaging remarks against the Chief Executive. I do think that there is not much chance of a deal being brokered for something that the Chief Executive clearly has not had any interest in doing throughout the three years that I've been serving with him. With that, I probably was out of line and I apologize for that. I would just say that I think that this is a good deal for the people of Maine and I'm more than glad to take this vote today.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, we are clearly putting dollars ahead of people's lives here today. We're not breaking new ground. In 1945, after the big blitz in London and in England, their treasury was at the bottom of the world. They had no money. They declared that they were going to cover every single one of their citizens with healthcare. They just increased their budgets from there. They spend about 11% GDP on healthcare for their citizens. We spend at 17% of GDP on our healthcare here in the United States and we still have millions and millions and millions of people who aren't covered or do not have primary care. I think that, for moral reasons, everybody needs to have healthcare. Just for moral reasons. We're Americans and we have people, we have our veterans, and we have people who have worked their entire lives without being able to visit their physicians or visit their doctors for primary healthcare. I'll tell you that I have a son who has a business of his own. He has a wife and he has two children. He pays about \$2,000 a month for healthcare for his family. I think that that's the way middle class people are going to continue

paying for insurance unless we can, as our good Senator Woodbury had pointed out two days ago, cover everybody and that all of the income level steps are covered. My son pays \$2,000 a month for healthcare for a family who is healthy. I can't imagine that they are even able to save any dollars for their children's school or anything else after to pay all that much money. We are never going to accumulate any kind of wealth while we are just spending our money for items that we don't even use, in his case. There are 30 industrialized nations that are having full coverage for their populations. Here we are, we're America, and we are not able to cover. We're the richest country in the world and we're not able to cover healthcare for our citizens and our veterans and our children and our seniors until they are 65. I think that we should be ashamed of ourselves, as Americans, for being in the world and not being able to keep our populations healthy. I am also very, very proud to vote for this, no matter what's going to happen to it down the road. Thank you.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I was not going to rise today because I felt that we had discussed this issue already this week. We knew what the conclusion probably would be in this Body and perhaps would be when it reached the second floor. What troubles me is that we are spending time discussing two very important issues with the knowledge that we're not going to solve those issues in this manner. I find it unfortunate that this Body chose on Tuesday to send a clear message to the hospitals that, once again, the priority of paying them immediately was not important. By stripping away the Emergency Measure we all know what happens. This bill has to wait until the Legislature adjourns and it has been signed by the Executive in order to go into effect. That ultimately puts it in a position that these hospitals will wait at least four more months before they start to see payments. Additionally, it puts us in jeopardy of losing federal matching dollars when they change this fall to the tune of approximately \$5 million, Mr. President. At a time when we're still dealing with revenue uncertainties, when we're dealing with a budget we've not completed, to callously throw \$5 million of Maine tax payer money into a scheme that has proven to be a federal opportunity to bait and switch states I don't feel is appropriate. I am disappointed that, as we've stood here during this week, we've taken valuable time posturing on an issue that's long overdue, which is the payment of our hospitals. I don't discount the fact that there are Mainers who suffer without proper health coverage. I think that is a debate that should deserve the respect of this Body in the context in which it should be had after careful study. What we've done is we've created a scenario that does not prove to be a win-win situation, but a lose-lose. I would encourage people to reflect on that before they press their button for Final Enactment. I thank you for your time, Mr. President.

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

Senator **LACHOWICZ:** Thank you Mr. President. Men and women of the Senate, I may be one of the new folks around here, but I don't think the people of my district sent me here to act like whatever is happening here is a done deal. I think people genuinely want us to solve both problems. As I said the other

day, I'll work to do that. I want to pay back our hospitals and I want people to get healthcare. I have to place my faith in this Body and in the Governor that we can have a reasonable discussion and come to a conclusion. The other thing I thought about is that I told a lot of stories the other day because I thought they were important. I went and got coffee yesterday. Amanda and Sam want us to know that they like what we are fighting for. Dawn works at a local business in Waterville and she can't afford health insurance and she can't afford her asthma medication. As I said the other day, when I talk to people, and I will keep talking to them, I ask them if they have health insurance, or if they have healthcare, and they say no. I ask them to tell me more about it. I've kept meticulous notes for a year and a half now. Here they are. Delores, Ruby, Ellen, Deidra, Lillian, Mike, Sandra, Rolland, Shelly, Jennifer, Margaret, Susan, Robert, Suzanne, Daniel, Mark, Jane, Patricia, Lenah, Tammy, Eugenia, Dusty, Carol, Basel, Susan, her husband I didn't catch his name, Armand, Sharon, Darlene, Dory, Edwin, Maureen, Nelly, Beth, Jeffrey, Eric, Raymond, Gene, Joseph, Regina, Daniel, Lori, Cathleen, Rebecca, George, Melissa, Tammy, Diana, she has a daughter who's in college and who's graduating and who doesn't have a job yet and who won't have health insurance shortly and she can't afford to pay for her health insurance even though she's under the age of 26, Melissa, Lisa, Lila, Sheila, Paula, Pauline, Robert, and I've got pages of this and I could go on. I'll just stop here because I'll keep taking notes. Thank you very much, Mr. President.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm one of those that wasn't going to speak again on this either because most everything has already been said. However, one of the comments that I heard from the other side of the aisle prompted me to stand up one more time. I want to make it perfectly clear to this Body that I'm not standing in the way of paying our hospitals. That is a moral obligation and I'm here to try to fulfill that obligation. I am standing in the way of an expansion of more 70,000 Mainers, mostly able bodied people. I will do so and I will continue to do so and use whatever influence I have until we resolve some of our other problems in this state. We have 3,100 people in this state, more or less, that are waiting right now. Seriously inhibited people, handicap people, that need to get on the MaineCare waiver. They are not being attended to. The number is getting larger. I know about this situation. I have one in my home. Until we address that issue, I'll continue to stand in the way of expansion for relatively able bodied people. Until the other side of the aisle agrees to address that issue, I'll continue to stand firm on that. I think that's an extremely important obligation that we have in this state. Ladies and gentlemen, we are not meeting it. It's time that we took care of the issues that we have in front of us and then we move on to other things. Then I'll engage in the discussion about drastically expanding the Medicaid expansion. When you agree to that, I'll agree to negotiate. Thank you, Mr. President.

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

Senator **THIBODEAU:** Thank you Mr. President. I wanted to tell you about an interesting exchange I had the other day. Secretary

of State Matt Dunlap and I happened to bump into one another in the cafeteria the other day. Matt, usually being quick witted and willing to share a joke, said that the difference between Republicans and Democrats was that Democrats really liked Christmas because they got to give somebody something and Republicans really liked Christmas because we get to chop down a tree. I thought that was pretty witty. My comeback to Matt was, "Mr. Secretary, I think really the difference is Democrats are able to give somebody something. They always want to do something nice for somebody. Republicans are always trying to figure out a way to pay for it." Herein lays probably the difference in what we're discussing here today. We have obviously had a lot of debate around whether or not we should expand.

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

Senator **JACKSON:** Thank you Mr. President. Point of order. I'm just curious if that might be a disparaging remark?

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

Senator **THIBODEAU:** Thank you Mr. President. I thought it was actually a remark that was kind. We've had a lot of debate about whether or not we should expand Medicaid or not. Obviously, both parties don't agree on that. There is one thing that we haven't talked a lot about. That's getting the hospitals paid and the importance of making sure that that happens. I'm a bit confused. Obviously, I think that we all know the outcome of the vote that we're going to take very shortly. I don't understand the path to getting the hospitals paid. That's what is confusing to me. Not that it is incumbent upon the majority party to share their strategy with me, but I don't see how this gets our hospitals paid. We all know the ultimate outcome of our actions here today. I think that is unfortunate because payment of the hospitals has to be very high on this 126th Maine Legislature's list of things to accomplish. We need to make sure that this happens. We've had a lot of comments about whether or not that's going to affect our credit rating. I have before me a couple of documents. One is from Moody's Credit Rating that says, "The negative outlook that reflects Maine's reoccurring challenges on the spending side of its budget, primary in the Department of Health and Human Services, DHHS, which includes Medicaid. A large portion is related to a significant Medicaid reimbursement due to the hospitals." That is a major issue when it comes to Maine's credit rating. We need to get our hospitals paid. Again, Standard and Poore's May 21, 2013, under "Outlook" it says, "The state faces continuing budget challenges, particularly in the area of Medicaid." We need to pay Maine's hospitals.

By growing a program that is already consuming significant portions of Maine's budget, as a matter of fact Medicaid spending has grown by 80% in the last 10 years, Maine has done a lot for its citizens, but there is a point where we cannot afford to do more. I'm sure that folks would want to point out that under the proposed expansion 100% will be paid by the federal government. We all know that that's the proposal. That goes on for three years. The fact of the matter is that it will cost the State of Maine, I believe, \$24 million to administer the program. In just three short years the cost will quickly grow. Despite picking up 10% of the cost, the cost will grow to over \$100 million. I had a friend once that said he was really broke. He didn't have a lot of

money. He said, "You know if they were selling riverboats for \$1 I'd have to run up and down the riverbank saying ain't that cheap, ain't that cheap." Ladies and gentlemen, I think Maine needs to consider whether or not we have the resources to do any of these things, both in the short term and the long term.

The unfortunate part is that this really wasn't debated in the committee that sent us this bill. We never had that opportunity to debate that. Veterans and Legal Affairs is not necessarily the committee of expertise. No insult intended. They typically are known as the booze and gambling committee. Sorry. Didn't mean that as disparaging. That is a lot of the issues that they deal with, not health and human services. It is a very different committee. Senator Burns had mentioned we have 3,100 disable people in the state of Maine that are on these waiting lists. I know that folks have wanted to point out that there are people waiting for Medicaid coverage. I want to show you that there is a young lady in Freedom, Maine. I see her Dad on a regular basis in or around Waldo County. She's on this waiting list that I'm referring to. She has been for several years. I don't know how I explain to her Dad that I have created a new priority for the State of Maine to cover able bodied adults while his daughter continues to wait. There is a waiting line.

I know the hour is getting late. I just wanted to make sure that I got an opportunity to quote some of our Democratic colleagues from other states. That is usually a popular thing to do here. The West Virginia Governor Earl Ray Tomblin, a Democrat, said, "We must be careful to watch federal efforts. If the program becomes unsustainable, particularly after three years, or the federal government changes its promises for funding allocations, we must be prepared to take action to protect our state." Ladies and gentlemen, I think that's a recognition that our federal government is facing some of the toughest financial times in modern history. For us to pretend that there isn't that possibility in some of our estimations, or even the probability, that those adjustments may have to be made would be very shortsighted. Mr. President, I would encourage you, the majority party, or Independent friend to think long and hard about pushing this issue forward because I don't know what the pathway to getting Maine's hospitals paid once this bill ends up in a veto. I shouldn't say that. I'm sorry. I apologize. If this bill ends up in a situation where it doesn't become law, I'm not sure how we get Maine's hospitals paid. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, Monday I spoke about a small businessman who would have coverage because of this and his story. You heard those details. I don't know how many people I've spoken with at their homes who told me the fact that others had coverage, that others had qualified for MaineCare. They were working and didn't earn enough to buy coverage for themselves and yet didn't qualify. It just wasn't right. I agree with them. That's one of the things that this bill would address. I don't know where the assumption that everyone who would be covered under this is able bodied comes from because I know there are people who don't have a choice whether illness or accident strikes them. I've spoken to people who only had the treatment for the cancer that they were stricken with and survived because they did qualify for MaineCare coverage because they couldn't afford to buy their own insurance and they couldn't afford that

treatment on their own. I heard many of those throughout my district. I agree that having people on a waiting list is a problem. I would suggest to you that the uncertainty that people are so concerned about has, in fact, been studied already. It's been determined, with the help of OFPR and by the Health and Human Services Committee, that we will have savings now. It's been determined by studies at the federal level by organizations that we will save hundreds of millions of dollars over ten years. We are one of ten states that will. I would suggest to you that if you are concerned about being able to expand programs to help those people the savings from this alone would help you do that. This is something we need to do both to pay back the hospitals and to get people this coverage. It's not only the right thing to do fiscally; it's the right thing to do morally. If you are concerned over whether this is going to happen then work to make sure it does happen. Cast your vote for this bill today. Lobby others to support it. There is no reason that Maine shouldn't move ahead with doing this now. If you are concerned over whether circumstances are going to change in the future, well we make laws with that uncertainty every day. We also know that when changes happen we can deal with them at that time. For us to guess about what might happen today, with information in front of us about what the intent of the federal government is and what their track record is in achieving what they said they are going to do to states being better than that of the state's, why would we decide today to not proceed with something that is right fiscally and right morally. I ask for your support on this bill.

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

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I have no eloquent speech. I have no story. I have simple words that I hope will resonate for the people of Maine. This bill pays the hospitals. I am voting for this bill because it pays the hospitals. I want the hospitals and the public to know that we are ready to pay. There are three links to this bill; liquor, hospitals, and MaineCare expansion. Because some people don't like one-third of the loaf of bread they are willing to throw out the entire loaf. I don't want to jeopardize paying the hospitals. That is why I am voting for this bill. I only wish we could pay the hospitals quicker, but we can't. Why? Because some people did not vote to make this an Emergency.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to vote for this bill because the small hospitals in my district need to be paid. I would vote for it if I wasn't convinced that we'd be saddling those same hospitals with even bigger bills that we couldn't pay. Thank you.

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

Senator **CAIN:** Thank you Mr. President. Men and women of the Senate, a philosophical debate on whether or not we should expand healthcare to 70,000 people in Maine and accept federal dollars is a good debate to have. It's one that is being had all across this country and it's been exciting to listen to this week. It is very hard to sit and listen to inaccurate statements being made

about the financial elements of this bill. Those are what I hope to address with my speech this morning. Number one, this bill does pay the hospitals. In fact, the financial structuring in this bill is the same as it was in the original bill offered by the Chief Executive and worked on in the Appropriations Committee. The timing of the bill and whether or not the payment to the hospitals will or will not be made prior to October 1, 2013, which is the start of the new federal fiscal year when the MaineCare rate changes slightly and may cost us \$5 million more, was accounted for in the original bill, as presented by the Chief Executive, and in the amended version unanimously agreed to in the Appropriations Committee. The timing of when a revenue bond is able to be put together and the timing of that being actually sold onto the market, where it would be able to create the funds to pay the hospital debt in one foul swoop, has never been certain. Even when this bill had an Emergency clause, every financial version of this bill included that extra \$5 million because the timing is not dictated by when we take the vote here today or when or whether or not the Chief Executive takes action on it. I want to be very clear that the financial elements are the same. They all pay the hospitals, whether or not that debt is paid prior to, on, or after October 1, 2013.

The next element I need to address has to do with the waivers for Section 21 and Section 29, particularly addressing the question around the very important people with developmental disabilities in our state that need access to services. I, too, have people in my life I care about deeply who have been on waiting lists for many years. The fact of the matter with the waiting list is that is X number of spots the federal government allows us to fill each year. We have not been filling all of those spots, but we are going to correct that in this year's budget. In fact, that's something that is before us now and we putting even more funds in than we were a year ago to make sure we can fill all of those spots that are on the waiting list. Will this make the whole waiting list go away? No, it won't. No, it won't, but it will maximize what we're able to do as a state right now to draw down the federal match. We are doing that and we will do it this year.

The path to paying the hospitals, Mr. President, is before us. The path to paying the hospitals is before us right now and today. It is clear. If we cannot proceed down it together we will have to seek another path, but I would argue, Mr. President, that the best choice for us right now is to take it today. Thank you, Mr. President.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand today. I was not going to speak. I do have to tell you a story. When I ran for this office I ran based on what I saw with people. I've been an EMS. I've been a paramedic firefighter for over 20 years. I've picked people up daily with the rescue who do not want to go to the hospital, but need to go, because they cannot afford it and they do not have insurance. We have to convince them it's the right thing to do, that they go get the medical care that is necessary so they can continue their lives. It's a daily struggle. I have constituents calling me since we voted in the supplemental budget about how that supplemental budget has affected them because of the things that have been taken away. That is not a great moment in my life. It should not have been taken away from anyone. They should still have the services they had prior to us voting in that

supplemental budget. This bill will give 70,000 people increased healthcare. That reason alone is why we should be voting for it.

I'm going to tell you a story of a person that I know. In 2005 there was this woman. She was working. She was an assistant branch manager at a bank. She was working on promotions to be vice-president, maybe even president someday. She had an injury. She fell down a flight of stairs. After that she went through tons of medical treatments. Luckily, she was insured. The problem is that her injury was not getting better. Her place of employment, in 2007, decided that she was no longer valuable to them because her medical care was interfering with her daily activities. She was let go from her job. Her Worker's Comp was revoked in 2008. Now she was left with no pay, no Worker's Comp, and she was surviving on the medical insurance that her husband had. As you can imagine, her bills became extreme, to the point where the house payment or the medical bill and the co-pays for the prescriptions was the choice. Which ones do we pay? As time went on, luckily, that family had a retirement from where her husband worked. They were able to dig into their retirement after three months of defaulting on their house loan. This went on for several years. They could pay the house payment. They would continue to pay the co-pays on prescriptions and medical insurance. Needless to say, their funds now are depleted. There was a short timeframe though, while her husband was providing medical insurance, Medicaid kicked in because of the astronomical expenses that were incurred and the amount the husband had to pay for child support made them under the poverty line of where they could afford to get MaineCare to help them pay for the prescriptions that they needed for the wife. While they were being paid, they were able to survive. They squeaked through. They saved their home. She is now fully disabled and she is receiving Social Security. Now they have a good life. Things are tight, but their complete savings is gone. Day to day they function and they are very thankful that MaineCare was there to help them survive through the process. That person, and that couple, is standing right here in front of you all today. It's myself and my wife. Had MaineCare not been available I would have lost my home and possibly everything I've worked for in my 26 years as a professional firefighter.

This is the right thing to do and we need to pass this bill. I also would like to help my friend, the Senator from Waldo. He doesn't know which path to take. I'd like to help him. If he follows my light, and follows my path, the hospitals will be paid. Thank you.

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

Senator **WOODBURY:** Thank you Mr. President. I've just been reviewing the fiscal note on this bill. The fiscal note basically says that the federal government has offered us \$340 million per year, which we can decide to take or not take, at no additional cost to state and local taxes. We have a decision here, whether to take or not take the \$340 million. The \$340 million would need to be used for healthcare services for people who have no health insurance now, for people who can't afford to buy health insurance now, and for whom they have a need for healthcare services. If we take the \$340 million to help pay for that healthcare, first of all, we'll be helping hospitals and other providers because the alternative is that those costs get absorbed into the system and transferred, indirectly, into the cost that we

pay for health insurance in private health insurance premiums. I come back to this core question. The federal government is offering us \$340 million, essentially no strings attached except to pay for healthcare for people who can't afford health insurance, don't have health insurance, and need care. We can accept it or not. I truly hope that we'll accept it. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, nothing is more enjoyable for me today than to follow the previous speaker because he made all the facts very plain. We have money being offered to us that we should be taking. Now I have two very strong hospitals in my community. One of them I serve on the board of directors. It's a faith-based non-profit hospital. Nothing is going to please me more than when we pass this bill so that we can not only pay the debt to our hospitals, I get asked that at our board meetings periodically, and we can also strengthen our hospitals. Believe me, those 70,000 people that get ill, that we want to cover, are going to show up in our hospitals. As the previous speakers spoke, that's exactly why we want to expand healthcare opportunities for those that can't afford it because they can't afford to get sick. They do have to go to a hospital and our hospitals do have to absorb those costs. I look at the big painting on this wall here. The first Republican President. He had an idea that we were all equal. Well, we are all equal. We all get equally sick. We all get equally injured. I had a massive heart attack when I was in the House. I see my seatmate sitting by the wall. If it wasn't for this Body paying my health insurance I'd have had none. I would have had to go to a hospital and they would have had to stabilize me and treat me. I'll bet you I wouldn't have had quite as much to worry about because I had health insurance paid for by my constituents and the rest of the people in the state of Maine. I'm going to vote today for my constituents. Last week I held a forum in Brunswick at Bowdoin College to talk about our budget. The good Senator from York, my seatmate here, the Senate Chair of Appropriations, was kind enough to come to talk to my constituents about our budget. What did they want to talk about? They wanted to talk about this. They wanted to ask me to support this bill and to make sure that we not only take care of paying our hospitals, which I want to do and this bill does it, but they also wanted me to support expanding healthcare opportunities, especially to the people that are working in this state for low wages. I'm going to stand here today and I'm going to tell you it's the right thing to do and if you want to follow the right path get behind this bill and not only support but help us to convince anybody else in this building to support us. It's the right thing to do. It's about time we did it. It's about time we stopped debating it and just get it done. This is what the people of this state want and it is money coming from, I'm sorry to say it, Washington that's going to help us, with no strings attached except to help people that need healthcare. Ladies and gentlemen of the Senate, please. I hope I didn't hurt any of your ears too much. Please support this bill and support convincing the rest of this building to do exactly the same thing and support this bill. Thank you very much, Mr. President.

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

Senator **GRATWICK**: Thank you Mr. President. Ladies and gentlemen of the Senate, I had not, as well as many others, intended to get up to speak again. On the other hand, this is probably the most important issue that I am going to face while I'm in the Chamber here. It is right and proper that we all get to have our say on this extraordinarily important issue. I would wish to just retreat from some of the specifics and talk about a more general question that has been raised; that of certainty or uncertainty in our lives. I think that what we're searching for here is a guarantee, a guarantee that things are going to work out one way or another. It is my profound opinion that there are no guarantees in life. There is no certainty. We do the very best we can with the data or whatever is available at hand and then we have to plug ahead. Certainly, as a physician but also very much as a person, I think we all realize there is nothing that is certain in life. I've seen many people who are wonderful people who get sick. Is it their fault? Absolutely not. That is the uncertain nature of human existence. This, what we're talking about today, fits absolutely with that. We all deal with uncertainty every day. We try to push it back. We exercise. We have a proper diet. We take care of our cholesterol. We wear seatbelts. Nonetheless, uncertainty is with us and will always be with us. This bill, like any other, has a certain degree of uncertainty with it, but very little. Mr. President, it's my opinion that really it's a measure of our character, how we judge with uncertainty. I hope we vote for this. Thank you, sir.

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

Senator **GOODALL**: Thank you Mr. President. Men and women of the Senate, I rise today to do what I believe, what I think, is in the best interest of the state. I rise today to encourage all of us to take action in an efficient way and in a way that will pay back our hospitals and that will expand healthcare coverage and access to a doctor for nearly 70,000 Mainers. I rise today to encourage us to support a bill that in one swoop of the pen will pay off the hospitals, improve drinking water and waste water, help the budget through the Stabilization Fund, and accepts healthcare payments for 70,000 people. As a kid growing up my Dad would never give me much influence. He would lead by example. He probably doesn't even remember this. I remember going into his office, his law practice. There was something I probably did that was terribly wrong. He leaned forward, his elbows on his knees, and he looked at me and said, "You need to do what you think is right." I often think about that. That guides me when I vote. Doing what is right today is voting for this bill. We heard great stories about individuals, great stories that were sad stories. We also heard about opportunity. I heard my good friend and colleague earlier talk about people watching at home. Those people watching at home, many of them are the ones that can't go to work because they don't have a relationship with a doctor. Their illnesses have been so negative, and such an impact on their lives, that they can't go to work. Can you imagine if they had a doctor when they first got sick or even if they could just get the treatment today that they need? They'd be back in the workforce. We hear about this bill wasn't in the right committee. Well, Health and Human Services discussed this bill, but those same people in Veterans and Legal Affairs, the committee that I formerly served on, discuss all the time about improving access to healthcare for veterans. They know this topic. We all know this topic. The topic about healthcare has probably been the most debated topic in the

country in the last two or three years. The Affordable Care Act has been looked at in every different direction, every different angle, by almost every commentator, every expert, and all of us. What it really comes down to is helping people. Doing what is right. One issue that is so frustrating to me, we hear about giving the Chief Executive the opportunity to negotiate. The law of the land is 100% payment, which will phase down to 90% after three years. Our Chief Executive, nor none of us, nor the President of the United States, can change that. This is a great deal for the state of Maine. It pays off the hospitals. It does it with good government and in an efficient manner. Why should we have a predetermined outcome? We should stand for what we believe in. We should vote and we should hope that others make the same decision in supporting this bill. This is what we were sent here to do. If we support this bill, and others choose to follow our actions, we can get this issue behind us and, most importantly, pay off our hospitals and help 70,000 Mainers, those same people at home watching today, right now, many of them probably ill, many of them seeking prescription drugs they can't afford, and many of them wishing that they had a relationship with a doctor just like all of us. That's what this bill would do. I encourage everyone to support the pending motion. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Sherman.

Senator **SHERMAN**: Thank you Mr. President. Ladies and gentlemen of the Senate, I honestly, honestly, honestly was not going to get up. I have been here longer than most on a steady basis. I remember voting for Dirigo Health Care. Do you remember the Dirigo Health Care? Trish Riley. Four percent on paid bills. Was going to run it. Where's Dirigo Health Care now? Trish Riley is still running. I saw a letter in the paper the other day where she said we should do this. That was 10 or 12 years ago. Just a couple of other points. I was on Criminal Justice when we consolidated the jails under Governor Baldacci. We were told that that was going to be a billion dollar saving over 10 years.

THE PRESIDENT: The Chair would interrupt the Senator to try to encourage him to limit his comments of L.D. 1546.

Senator **SHERMAN**: Thank you Mr. President. The point is we didn't save a billion dollars with all the planning. We're talking about planning here. We're talking about throwing something against the wall and see if it will stick. It really should be, at the best, put out to some sort of study group so we can get on with this. The issue of the payment to the hospitals, that's because we didn't pay and that's part of the Medicaid piece that we didn't pay. Now we're just saying like it's another debt that showed up. It's a little bit of hypocrisy here. I know we're in a little heated debate. I'm missing a pizza party over in AGI, so that's another piece. Maybe we can call for the vote. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#107)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFOSKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Act

An Act To Provide Increased Opportunities on the Allagash Wilderness Waterway

S.P. 102 L.D. 269
(C "A" S-85)

Comes from the House **FAILED ENACTMENT**.

On motion by Senator **JACKSON** of Aroostook, **TABLE** until Later in Today's Session, pending **ENACTMENT** in **NON-CONCURRENCE**.

Resolve

Resolve, To Erect a State Monument to Franco-Americans
H.P. 377 L.D. 558
(C "A" H-180)

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

Ordered sent down forthwith.

Senate at Ease.

Senate called to order by the President.

Senator **TUTTLE** of York was granted unanimous consent to address the Senate on the Record.

Senator **TUTTLE**: Thank you Mr. President. Members of the Senate, I had distributed this disk about the Tuskegee Airmen. We have James Sheppard here who will be in the Hall of Flags to meet with us after recess. I would suggest that we do that. He is a very remarkable man. He's one of the few remaining members of the Tuskegee veterans. I know that Senator Haskell told me a very interesting story about the granddaughter who was interviewing Mr. Sheppard and was scheduled for one hour but Mr. Shepard spent four hours with her. He's truly an amazing man and I hope we would have a chance to meet him in the Hall of Flags. Thank you, Mr. President.

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

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

RECESSED until 6:00 in the afternoon.

After Recess

Senate called to order by the President.

Senator **HASKELL** of Cumberland requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

ORDERS OF THE DAY

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 Table and Later Assigned (5/15/13) matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Reduce Obesity among Schoolchildren"

S.P. 397 L.D. 1160

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-81)** (7 members)

Minority - **Ought Not to Pass** (6 members)

Table - May 15, 2013, by Senator **MILLETT** of Cumberland

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

(In Senate, May 15, 2013, Reports **READ**.)

Senator **KATZ** of Kennebec requested a Division.

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

Senator **PLUMMER:** Thank you Mr. President. Men and women of the Senate, I think the break this afternoon was perhaps somewhat counterproductive for me because I had time to look at bills and this bill is one that I looked at. As a teacher who spent, at this point, over 33 years, or over half of my life, in the classroom, I read this and I said, "Is this anti-teacher?" Are you taking away the decision that I would make in the classroom? I read the bill and I said that I agree with the goals. I think the goals are noble. One of the boards that I have never served on was the school committee, but I have great respect for the school committee. I think should this be a matter for the school committee rather than a matter for the State Legislature? I harken back to those days in the teacher's room when I heard, "The Legislature tells us we have to do this. It's a state law." At this point I'm questioning myself. Do we really need a state law to do the noble goals that are in here? I don't disagree with the goals, but at this point I disagree with us, as a Legislature, telling the school systems, telling the teachers, that they need to do this. It's bothered me and I wanted to say that. I thank you for allowing that.

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

Senator **MILLETT:** Thank you Mr. President. I have had the privilege of being raised by a teacher, my father, of working with teachers for my children, and working with them as a school board member. I have nothing but the highest praise for the work that they do and the judgments that they often need to take in their classrooms. The question is; do we need state law? I would say, unfortunately, there are situations where I think state law would help in guiding our educators in certain situations. Primary and secondary aged students are physically growing. In order to support the healthy growth of their mind and body, they need adequate time for physical activity. These students spend up to 7-1/5 hours a day, five days a week, inside school. Given that students spend so much time at school, we should also use this time to encourage a healthy lifestyle which includes exercise. Studies show that our obesity rates continue to climb despite all of our best efforts and discussion. Soon more than half of our

state will qualify as obese if we do not take more steps to curb and hopefully reverse this trend. Teaching healthy lifestyle practices at a young age will stick with our children for life. The measure would require that a student from kindergarten to grade five would participate in a minimum of 30 minutes of daily physical activity at school and prohibits this time being taken from them as punishment. Existing physical activities would help meet this target, such as physical education classes and recess. With a little creativity physical activity can be incorporated into classroom activities and there are many resources for educators such as "Let's Go 50210". Research has shown that physical exercise not only improves student's fitness, but, for me almost equally as important, can improve student's ability to pay attention and boost their academic performance. Often times those children that need recess, that need that physical activity, have that taken away from them because of their behavior in the classroom. I believe this measure will contribute to our children building healthier habits which will follow them through life. I ask you to join me in support of L.D. 1160. Thank you.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I just want to add a few more points. I, too, am strongly in support of this bill. I know that this is a serious problem and it is something that is one of the high priorities for school health coordinators, this obesity issue. There are school systems that are still not dealing with it on their own within their school boards. A third of Maine children and adolescents are overweight or obese and that, as the good Senator pointed out, is double. I urge you to join us in supporting this bill.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think all of us recognize from our own time in school that value of physical education. I think many of us had the opportunity after school and on weekends to play outside and participate in activities that gave us that development. I applaud the goal in the first section of this bill. The concern I have, though, is that we are assuming that this is not something that other members of the educational field have already adopted as a primary objective when they are dealing with students. I think a one-size fits all approach, particularly when it also is paired with a reference to whether or not food can be used as a reward or punishment, sends a very negative message. I recognize that there is an amendment to the bill that talks about this bill as a Majority Report and provide the prohibition of the use of food as a reward or punishment for behavior or performance of the student, if such use is consistent with the student's individual educational plan. However, I think still in this bill the context is raising the question of whether or not this action sends the wrong message. Mr. President, I would encourage members of this Body to think. If we're not able to say to our communities that we trust them with the decisions they make with our children, what other steps are we going to take? What other messages are we going to send? In this difficult climate, where we are already unable to fulfill the commitments to fund education at the appropriate level, I think it's one more poor message to send to the hard working teachers and educators of this state. I urge us

to consider carefully before we take action on this. Thank you, Mr. President.

At the request of Senator **KATZ** of Kennebec a Division was had. 24 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-81) **READ**.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-121) to Committee Amendment "A" (S-81) **READ**.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, this amendment simply strikes the provision of the bill and Committee Amendment "A" regarding the use of food as a reward or punishment and, therefore, would allow the use of food as a reward or punishment. That is the sole change this amendment makes. Thank you, Mr. President.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-121) to Committee Amendment "A" (S-81) **ADOPTED**.

Committee Amendment "A" (S-81) as Amended by Senate Amendment "A" (S-121) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-81) AS AMENDED BY SENATE AMENDMENT "A" (S-121)** thereto.

Sent down for concurrence.

The Chair laid before the Senate the following Table and Later Assigned (5/15/13) matter:

HOUSE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Join in a Prohibition on Motor Fuel Containing Corn-based Ethanol" H.P. 97 L.D. 115

Majority - **Ought to Pass** (7 members)

Minority - **Ought Not to Pass** (6 members)

Table - May 15, 2013, by Senator **MASON** of Androscoggin

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 8, 2013, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 15, 2013, Reports **READ**. On motion by Senator **BOYLE** of Cumberland, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.)

On motion by Senator **MASON** of Androscoggin, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

The Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE**.

On motion by Senator **MASON** of Androscoggin, Senate Amendment "A" (S-105) **READ**.

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

Senator **MASON:** Thank you Mr. President. The amendment before the Senate basically just removes that three state threshold and makes it ten states or 30 million people. I worked on this with a bunch of people and I hope we can accept it tonight. Thank you.

On motion by Senator **MASON** of Androscoggin, Senate Amendment "A" (S-105) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-105), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Table and Later Assigned (5/16/13) matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Notice of Risk to Personal Data Act To Further Protect Consumers" H.P. 133 L.D. 158

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-151)** (6 members)

Table - May 16, 2013, by Senator **GRATWICK** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 15, 2013, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-151)**.)

(In Senate, May 16, 2013, Reports **READ**.)

Senator **GRATWICK** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

On motion by Senator **GOODALL** of Sagadahoc, **TABLE** until Later in Today's Session, pending the motion by Senator **GRATWICK** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Ordered)

The Chair laid before the Senate the following Table and Later Assigned (5/20/13) matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Expand Eligible Project Costs in Development Districts"

H.P. 289 L.D. 413

Majority - **Ought to Pass** (11 members)

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

Table - May 20, 2013, by Senator **GOODALL** of Sagadahoc

Pending - **FURTHER CONSIDERATION**

(In House, April 10, 2013, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 15, 2013, Reports **READ**. Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**, in **NON-CONCURRENCE**.)

(In House, May 16, 2013, that Body **INSISTED**.)

On motion by Senator **GOODALL** of Sagadahoc, the Senate **INSISTED**.

The Chair laid before the Senate the following Table and Later Assigned (5/21/13) matter:

HOUSE REPORT - from the Committee on **TAXATION** on Bill "An Act To Require the Collection of Sales Tax by any Business Making Sales to Persons in Maine"

H.P. 251 L.D. 346

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-194)**

Table - May 21, 2013, by Senator **HASKELL** of Cumberland

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

(In House, May 20, 2013, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-194)**.)

(In Senate, May 21, 2013, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-194) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **HASKELL** of Cumberland, Senate Amendment "A" (S-118) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H- 194) AND SENATE AMENDMENT "A" (S-118), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Table and Later Assigned (5/21/13) matter:

An Act To Further Reduce Student Hunger
S.P. 472 L.D. 1353
(C "A" S-70)

Table - May 21, 2013, by Senator **JACKSON** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, May 15, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-70)**.)

(In House, May 20, 2013, **PASSED TO BE ENACTED**.)

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

The Chair laid before the Senate the following Table and Later Assigned (5/22/13) matter:

SENATE REPORT - from the Committee on **MARINE RESOURCES** on Bill "An Act To Allow Municipalities To Petition the Department of Marine Resources To Establish Dive-only Areas for Scallops in Mooring Fields"

S.P. 324 L.D. 946

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-110)**

Table - May 22, 2013, by Senator **JOHNSON** of Lincoln

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 22, 2013, Report **READ**.)

Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-110) **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.

The Chair laid before the Senate the following Table and Later Assigned (5/22/13) matter:

Bill "An Act To Amend the Laws Governing Weight Tolerance for Certain Vehicles"

H.P. 1065 L.D. 1484

Table - May 22, 2013, by Senator **JACKSON** of Aroostook

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

(In House, May 20, 2013, **PASSED TO BE ENGROSSED**.)

(In Senate, May 22, 2013, **READ A SECOND TIME**.)

On motion by Senator **MAZUREK** of Knox, Senate Amendment "A" (S-120) **READ** and **ADOPTED**.

On motion by Senator **KATZ** of Kennebec, **TABLE** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-120)**, in **NON-CONCURRENCE**.

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

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Amend the Notice of Risk to Personal Data Act To Further Protect Consumers"

H.P. 133 L.D. 158

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-151)** (6 members)

Table - May 23, 2013, by Senator **GOODALL** of Sagadahoc

Pending - motion by Senator **GRATWICK** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence (Roll Call Ordered)

(In House, May 15, 2013, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-151)**.)

(In Senate, May 16, 2013, Reports **READ**.)

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

Senator **GRATWICK:** Thank you Mr. President. This issue, which has been around a number of times before, is an important one. Basically, it relates to whether or not your financial data is at risk or if lost because of errors in your merchant, bank, or insurance company, or whoever has access to your financial data, whether or not you will be notified in a timely fashion. The background of it is that there are already laws on the books that you should be "notified as expeditiously as possible without reasonable delay." Current law also requires notice not only when misuse of data has definitely occurred but also where misuse is "reasonably possible". Maine's law on data security notification is in need of clarification and tightening. A clear timeframe of 60 days, which is in this bill, is less ambiguous than the current language. There is an instance that occurred last year where a major bank in Maine delayed for seven months a case involving loss of computer back-up tapes with social security numbers, names, addresses, and account numbers involving 35,000 Mainers. A clear timeframe of 60 days is less ambiguous than the current language and had the 60 day window been in law already notice to the consumers would have been provided promptly instead of seven months later. This amendment does three things. It clarifies that "expeditiously as possible" means that consumers must be notified within 60 days and the Attorney General must be notified within 10 days of discovery of the breach. The amendment also provides that if data is lost or misplaced and then discovered within this 60 day window and there is no evidence of misuse or fraud consumer notification is not required. The amendment does not change the provision in current law that notification may be delayed during the course of a criminal investigation is a law enforcement agency determines that notification of the breach will compromise the investigation. There are four other states that also have very specific time notifications; Florida, Ohio, Vermont, and Wisconsin. Each of these states require only 45 days. We, here in Maine, are requesting 60 days.

As I think we are all aware, privacy and data breaches are very a serious and ongoing problem in the country and also here in Maine. A search last week on the on-line privacy rights clearing house data base found for the first four months of 2013 alone there have been 180 privacy breaches involving over 900,000 records, and these are the only ones publically reported. The 2012 annual report by Javelin Strategy and Research on identity fraud found that the identity fraud victim in the United States rose by one million consumers in 2012 to a total of now 12.6 million. Nearly a quarter of all consumers who received data breach notices in 2012 were, in fact, the victims of identity fraud. In other words, this is real. I repeat, for every 100 of us who receive a notice that our data may have been compromised 25 actually have been or are now the victims of identity theft. Identity fraud in 2012 resulted in \$20.9 billion in money stolen. The average consumer cost from this fraud was \$365. For 80% of consumers costs were absorbed by banks and credit card

companies. Thus it is in the interest of the financial institutions in particular to report data breaches as soon as possible so steps can be taken to prevent the fraudulent use of this data.

The amendment before us is a reasonable measure which simply clarifies current law to better protect consumer privacy while at the same time giving insurance companies, banks, credit card companies, merchants, and other institutions that have access to our social security numbers and financial records the time they need to investigate. Mr. President, I move the Minority Report, Ought to Pass on L.D. 158.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise before you today in opposition to L.D. 158. I'd like to point out a few important facts about L.D. 158. L.D. 158 would require notice to Maine citizens without sufficient opportunity to investigate whether a data breach had even occurred. Establishing a ridged time deadline to report a breach is not required under federal law and would make Maine an outlier state. The current data breach law is intended to balance the need to investigate whether a breach has occurred and, if so, its implications and to coordinate with law enforcement as necessary and to notify consumers as soon as reasonably possible. L.D. 158 removes that balance. L.D. 158 would only force banks and credit unions to cry wolf when, in fact, there wasn't one. Current law has done a good job in protecting the public's interest and holding financial institution accountable and continues to do so. L.D. 158 is not necessary and I ask that you oppose the Minority Report. Thank you.

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

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, I urge you to oppose the pending motion. I want to talk a little bit about my personal experience. I sit on a bank board. I have for close to 23 years now. As a matter of fact, it's one of Maine's great community banks. I also sit on its risk committee, so I am familiar with this issue. I will tell you, there is not much that the banks and, frankly, our partner credit unions, who also provide financial services to people in this state, take any more seriously than the protection of people's private information. We are covered by a variety of laws, a variety of auditors, and a variety of federal overseers. The responsibilities that we have to report breaches are taken very seriously. One issue that I want to talk about, which I think this bill has not adequately taken into consideration, is the impact this would have on the number of vendors that each bank has. Our bank has relationships with a number of vendors; from those people who destroy our data, those people who shred the information, to those people who are in our buildings with a variety of services that they provide. Each one of those vendors we, as the bank, are personally, as a bank, responsible for their actions when it comes to breaches as well. This bill would require our bank, as far as I can tell, to renegotiate every one of the contracts. Every one of those contractors that we do business with on a daily course of business, monthly, yearly, or annually, and renegotiate so that we would be able to be sure that any breaches that occurred that were not occurring directly in our bank but by one of our vendors would be able to be reported.

We're talking here not just about actual breaches, but any loss of data. If something gets misplaced, if the number of bundles that go from here to there are not the same, that's lost information and we'd be required to report this to our customers. I think this is not feasible. It would be very difficult in order to be able to renegotiate all those contracts and be able to have the appropriate number of people in place in order to make sure that all of our contractors were not losing any data or that they were reporting it in an appropriate timeline. I believe that this bill ought to be rejected at this time and I would encourage you to join me in defeating the current motion.

At the request of Senator **SAVIELLO** of Franklin, Reports **READ**.

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

Senator **WOODBURY:** Thank you Mr. President. I also oppose the Ought to Pass as Amended motion. I agree with others who have spoken before me. Three main reasons. First, this imposes a regulation in Maine that goes far beyond the national mainstream of regulations and effects financial institutions that operate around the country. Second, it broadens the definition of what is a data breach to be very broad, as the Senator from Cumberland, Senator Haskell, described, to include lost, misplaced, or unaccounted for computer data. It's in this aspect that it goes well beyond the national mainstream. Finally, I think it would be the only state. The 60 days was mentioned, but this bill also requires a 10 day notification after a broadly defined breach to state regulators. In short, I think that this is not a direction that our state should go at this time. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#108)

YEAS: Senators: GERZOFSKY, GRATWICK

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GOODALL, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

2 Senators having voted in the affirmative and 33 Senators having voted in the negative, the motion by Senator **GRATWICK** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Table and Later Assigned (5/21/13) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device"
S.P. 157 L.D. 415

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-106)** (5 members)

Table - May 21, 2013, by Senator **VALENTINO** of York

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

(In Senate, May 21, 2013, Reports **READ**.)

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

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, the divided report on L.D. 415 is interesting. It is truly a bi-partisan divide with both sides of the aisle on this report. All three members of this Body are on the Majority Ought Not to Pass, which is the motion before this Body. The bill was strongly opposed by the Maine Attorney General, the Maine State Police, and the Maine Chiefs of Police Association. In written and oral testimony from the Deputy Attorney General at the public hearing he said, "My office has serious concerns that this proposed legislation could significantly impede our ability to conduct investigations of major crimes, including murder, drug conspiracy, and child pornography." With respect to obtaining cell phone location information, Maine law enforcement follows the provisions of the federal law, known as the Electronic Communications Privacy Act. This act specifically governs the procedure that must be followed in order to obtain cell phone information. If they need to obtain content information, such as e-mails, text messages, or other communications, Maine law enforcement already needs to get a warrant. If they need information for live tracking, they need to get a warrant. If they only need the bare minimum of information, known as historical cell phone location information, then they already need to go before a judge to get a court order approved and signed. The term "location" is the key word to remember in this debate. Obtaining historical location information already requires a court order to obtain. Our 4th Amendment says the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. Location information is requested from the cell phone or internet provider company, not from an individual's cell phone or computer. This is not a situation where we are seeking to search the phone itself or

someone's computer. Those types of searches already require a search warrant. The order that you need to obtain location information specifically states on the order, "This order has been issued pursuant to Title 18, U.S. Code Section 2703D," which is the federal Electronic Communications Privacy Act which was enacted in 1986 and amended eight times since then, most recently in 2009.

Why is cell phone location data so important to law enforcement? Two basic reasons. One is to see if someone may have committed a crime and the other is to eliminate people who probably didn't commit the crime because they were not near the crime scene or the victim during this period of time. By eliminating some people of interest immediately it frees up law enforcement to spend their valuable time on potential suspects. Those opposed to L.D. 415 stated that it would go much further than current law, requiring a probable cause warrant when probable cause does not yet exist. For an example that we heard, a homicide took place in Southern Maine. The wife claimed an intruder broke into the house. When the detectives interviewed the wife the next day her brother and a friend were at the house and detectives were told they had just arrived from New York to comfort her. Based on interviews during the next several days, law enforcement could show specific and articulable facts to obtain a court order to get cell phone information. When law enforcement used the historical location data from all three of their cell phones they found out that that the brother's cell phone was pinged off a tower in New York, then in Connecticut, then in Massachusetts, then in New Hampshire, and then in Maine, all on the day of the homicide, not the day after. Now, having probable cause, they could put the two of them in Maine on the day of the murder due to this historical cell phone location record. They went back to court to get a search warrant to assess the content of the cell phone records. Lo and behold, the wife and the two of them had been talking all day on the trip to Maine and the friend was really the boyfriend. They had all conspired to kill the husband. The lesser standard of obtaining the court order first allowed them to gather the information to establish probable cause for a warrant and ultimately solve the case.

Law enforcement's biggest concern with L.D. 415 is the notification piece. Within three days of obtaining a person's cell phone location information law enforcement has to notify the person, or multiple persons, that they accessed this information and why they were doing it. This jeopardizes an on-going investigation. They gave an example of a drug dealer who was murdered in Southern Maine, again. They had the cell phone with hundreds of contracts on the cell phone, which they pinged off of. Do they have to go back to court all the time and notify these people? What if they were friends and they said, "Gee, somebody just told me they are checking my cell phone." The bill allows for extensions to three day notification. You have to go back to court to get an order to delay the notification and the delay only lasts for 90 days. Every 90 days you would be back in court getting another order to delay notification. That's great if you have one case working in the entire state of Maine. I want to give an example. Actually it's one of my good friend's daughter. A young girl from Saco was murdered seven years ago. They still have not arrested her killer. If they had pinged some suspect's phones would they still be going back to court seven years later to get extensions or would those extensions have been denied by now? Would they have to notify every one that they were on that suspect list? This is just one case. How would law enforcement track all of these extensions on hundreds of cases and thousands

of cell phones? Maybe that is why the bill carries a fiscal note of \$134,000 per year going forward.

Not one instance or example was given at the public hearing where there was an abuse by law enforcement. No problems with the current law having to get a court order was cited. We heard a lot of talk about the need to update laws in light of current technology. That may be true, but right now there is no consensus about cell phone warrants for location. Not only do different states and police departments follow different practices, different courts in different areas of the country have ruled differently on this matter. That is why we need to wait to see what Congress is doing to amend the federal Electronic Communications Privacy Act. Bills are currently pending in both the Senate and House to amend the act that governs these provisions. In light of the recent IRS scandal, amending this federal act is getting a lot of attention. As recently as May 7th another bill was put in. Updating the federal act will give consistency and uniformity of the law across the country. This bill creates another patchwork of separate state rules dealing with the issue. Even those who want the bill to pass passed out a handout stating that only four states require a warrant for this information at the time. I will end the way I stated with a quote from the testimony of the Deputy Attorney General, "L.D. 415 appears to be the classic case of a solution in search of a problem." Maine law enforcement and prosecutors are complying with the federal Constitution, the Maine Constitution, and the federal law with respect to location information and there would appear to be no need for L.D. 415 to deal with any abuses. I urge you to support the Majority Ought Not to Pass.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, it is difficult to follow the eloquent remarks of my friend and colleague, Senator Valentino. To me, Mr. President, this bill is about protecting our civil liberties. We come from different parts of the state, from different walks of life, and different parties, but we are all Americans. If you think of the principles that bind us together and make us different from other places, we are very jealous of our liberty. Here in the land of the free we value our liberty. A big part of that is our personal privacy. Privacy from others snooping around in our lives. Particularly privacy from government intruding into our lives. We don't want anyone, including the government, searching our homes, our cars, or our mail without a darned good reason. Those rights are not absolute. There may be times when government has a good and legitimate need to invade our privacy, but it ought to be a darned good reason. The question which the founding fathers wrestled with 200 years ago was; what is a darned good reason? Then who gets to decide whether it's a darned good reason? The police or someone else? The framers answered that question right in the Constitution, the 4th Amendment, the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

What is this probable cause thing that they were talking about? Is it a terribly high standard that can only be reached in the most extreme cases? Well it really isn't. It's just a legal way of saying that there is a darned good reason for invasion of

privacy. The Maine Supreme Court defined it this way; probable cause is reasonably trustworthy information which would warrant a prudent person to believe that the search would disclose criminal conduct or items that would aid in identifying a criminal or establishing the commission of a crime. A very very low standard which no prosecutors have very much trouble in reaching.

Who gets to issue the warrant and how hard are they to get? Well, they are issued by judges and also by Justices of the Peace, who used to be called Complaint Justices. There are 50 judges and I think there are close to that many Justices of the Peace. There are close to 100 people around this state available to consider application for warrants, night and day. By the way, those folks who issue the warrants, of course, are only hearing one side of the story. They hear from the prosecutor or the police, not the potential person who is going to be searched. It's pretty easy to make the case. The point is to make the case they have to show probable cause. Cell phones may be new, but this concept isn't. It's been around since the 18th Century and it's protected us ever since then. There is a well-developed body of law which is built up on this subject, but the basic point is before our personal privacy gets invaded a neutral judicial officer must make the call. In baseball we don't let pitchers call the balls and strikes and we shouldn't do that either when it comes to the law. The need for protection of our liberties hasn't gone down in 240 years.

What has changed is the technology. Sometimes technology gets ahead of the law and we need some time to catch up. That brings us to L.D. 415. Wiretapping, the ability to secretly listen in on phone conversations, which came up decades ago, probable cause needed for that. This Legislature thought that the whole idea of the government snooping around on us on the phone was so problematical that the outlawed wiretapping in Maine. You can't do it under any standard. Once again technology is making us think outside the box. Smart phones. Most of us have one. They are amazing inventions, not only because I can check the Red Sox score right now if I have a moment, but because if I want to go visit Senator Jackson, 296 miles away in Allagash, it can give me turn-by-turn directions as I go up there. If I'm in the middle of Iowa it can tell me where the nearest Thai restaurant is in a second. If I'm lost on the streets of New York it can tell me I'm at the corner of 78th Street and 3rd Avenue. It's mind boggling. New technology raises new issues in privacy. Smart phones have pretty amazing capabilities. That GPS function on your phone knows just where you are, not just that you are in Augusta, but that you are in the State House and that you are on the third floor of the State House and, if you are Senator Tuttle, you are sitting maybe ten feet from the window. It's amazing and it can be used for tremendous good. There is a child who is lost. If an elderly person has wandered off. It's a wonderful tool, but technology is morally neutral. You can use it for bad as well as for good. The fact is that your cell phone provider, whether it's Verizon or U.S. Cellular or Sprint, can tell someone not only where you are right now but where you have been for the last 30 days or the last 60 days. Did you know they had those records about you? I didn't realize that until recently. Do you feel you should have a reasonable expectation of privacy about where you are now and where you have been the last two months? By the way, who you have been with. Do you feel the government ought to be able to go in and be able to snoop around in those records without your permission and without at least having to show some darned good reason? Just think for a moment about what those records might show. As Judge Ginsburg of the U.S. Court of

Appeals recently wrote, he said, "One's location might reveal whether he is a weekly church goer, a heavy drinker, a regular at the gym, an unfaithful husband, a patient receiving medical treatment, an associate of particular individuals, or political groups." Not just one such fact about a person, but all such facts. Again, not just where you have been, but who you've been hanging around with. That's the reason we need to ask police to apply to a judicial officer before they can invade that. If that minimal standard of probable cause exists, they will get a warrant. It's a small step, but one that protects us all.

There are also times when the police should not have to go get a warrant. That's built right into the law. It's when there is an emergency situation. Again, a couple of examples. A child is missing. You don't have to come up and file an affidavit for a search warrant under those circumstances. You just go and the police can go to the cell phone provider and say, "There is an emergency here, there's a child missing." The cell phone provider will say fine and they will get those records. The law has always recognized exceptions to warrants for what is called exigent circumstances, which is basically some kind of an emergency. By the way, if you think of a couple of cases recently. A terrible tragedy a few days ago up in Glenburn. That would have been an emergency. A child missing and issues about whether she might have been abducted. An emergency. All L.D. 415 does, Mr. President, is let law catch up with technology and say to the police if they want to search our incredibly personal information about where we are or where we've been that they'll be held to the same standard as if they wanted to search our mail or our home. Again, we have a reasonable expectation of privacy and we want to be free from government intrusion unless there is a good reason why not.

Consistent with the way other search warrants are handled, the bill does require prosecutors to give notice to the owner of the phone that records have been searched. It's absolutely true. That's just consistent with what happens if someone searches your home. The police have to let you know that they've searched it. This bill has exemptions to that notice. When the police apply for the warrant the bill has right built in there that they can make the case why giving notice right away would interfere with the on-going police investigation. They can delay it for 90 days and then they can delay it for another 90 days and another 90 and another 90, ad infinitum. If there is really truly an on-going investigation going on that notification is going to interfere with I guarantee you that no judge is going to deny one of those motions. By the way, if you don't like those notice requirements, you'll love what you see in the amendment. By the way, this is also consistent with a recent case in the U.S. Supreme Court. I'm sure you heard about where the police wanted to place a GPS device under the bumper of a car. The court said no. There is an expectation of privacy in where people are and before you are going to invade that you've got to get a warrant.

The Attorney General does oppose this law. They tell us that they and the State Police are already following the rules already, and that's great. The State Police and the Attorney General are not the only law enforcement officers in this state. We have 16 county sheriff offices. We have I don't know how many dozens of local law enforcement agencies, all of which can go and apply for warrants or go to cell phone providers and ask for records. All this bill does is asks them to get a warrant from a judicial officer. The good Senator said that federal law covers this. I respectfully disagree. This law was passed in 1986 when cell phones were just being born. They weighed about two pounds. They had no

GPS capabilities. None of the amendments which have passed since then have updated that. Some courts have said that the federal law applies. Some courts have said that the federal law doesn't apply. By the way, if you want to wait for Congress to do anything good luck. It'll be years before they get their act together and deal with this issue, just like they have with so many others. I heard it mentioned, not in debate, that somehow this bill would have impeded the investigation of the Boston Marathon bombing. Absolutely not so. You had a terrorist on the loose. If that's not an emergency which would justify going ahead without a warrant then I don't know what that is.

The Attorney General says, "Trust us. We have more important things to do than snoop around in people's lives." That's the same argument that prosecutors have been making for 2,000 years. Nothing in the Constitution tells us to trust law enforcement when it comes to protecting our privacy. I trust the Attorney General, the current Attorney General. The Chief Deputy Attorney General, the Criminal Deputy, is one of my best friends. I would trust him with my life. One of the other people you are going to hear from today is my colleague from Washington Country, Senator Burns, who I would also trust implicitly. My trust doesn't go to all law enforcement at all times. How about the prosecutor down at Duke? Elected by the people. Three lacrosse players at Duke accused of rape. He withheld key DNA evidence that would have exonerated those people. He made false statements to the press to help his own reelection campaign. How about the Arizona cop recently? There were dirt bike tread marks. The FBI had told the prosecutor that the defendant's bike could not possibly have made those marks. Yet the police waited ten years while this fellow served in prison before that case got figured out. More recently, the policeman in Baltimore who outright lied on a search warrant affidavit. Closer to home, the Hancock County prosecutor recently disciplined for failure to turn over evidence to the defense that might have shown the defendant's innocence. The point is that 99% of people in law enforcement and 99% of the prosecutors are absolutely honorable people. This law is not designed for them. In the last two weeks the IRS harassing political groups. The Justice Department snooping into phone records of reporters. It has nothing to do with what political party is in power. Various administrations are equal opportunity offenders. The idea that we haven't been able to show a problem in Maine; so what's the need of passing this? That's the whole point. When the police do what they do, they do it in secret. People never know that their records have been searched. This is just trying to get the law straightened out so that everybody knows what it is and that not only the Attorney General but the Assistant Police Chief at East Centerville will know what the law is.

Mr. President, it seems to me that one of the most important jobs we have when we come here is to be guardians of the liberty of our constituents. If you don't mind the government snooping around in your lives without a good reason, go ahead and support the pending motion. Remember, as Benjamin Franklin said over 250 years ago, they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety. I ask my colleagues to vote against the pending motion. Thank you, Mr. President.

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

Senator **LANGLEY**: Thank you Mr. President. Men and women of the Senate, I also rise today to oppose the Majority Report on L.D. 415 and to sort of use the metaphor of my good colleague at the end of the aisle here. In baseball an umpire calls balls and strikes. In tennis it's a line judge and a chair umpire determine whether the ball is in or out. In basketball the referee determines a charge or a travel, well maybe not so many travels. We could automate this function. We could leave it entirely up to technology and let a machine make these determinations, perhaps more accurately than a human. We would lose something very precious, a sense of fairness and human discretion from the game. What would the game be like if Big Papi could not give the ump a dirty look after a questionable strike or Doc Rivers getting a technical for screaming at the ref for a bad call? We could easily automate these functions to eliminate any controversy over bad calls, but should we? In the same way we could allow the government to track our movements without any limits at all. The omnipresent eye of a Big Brother could determine fair or foul on our streets at all times and we might be safer. Safer from what? Is that a world we want to live in? Without this bill the police would operate under rules, as has been said before, that originated in 1986 when, indeed, cell phones were the size of bricks.

In my spare time I read a lot of science fiction. What was once fiction is now a looming reality. We all essentially carry GPS tracking devices in our pockets. Based on cell tracking information, the government can create a map of your every movement, past and present. Under current law the government can get this information from your wireless provider without ever telling you. Is this the world that we want? I think of future applications. Mr. President, you receive a speeding ticket in the mail because on your way to the State House your cell phone traveled from Portland to Augusta faster than the speed limit, regardless of whether or not you passed a trooper. Farfetched? Is this the world we want?

We have an opportunity now, before it's too late, to set in place sensible safeguards to regulate location tracking in our state. Before mapping your movements, police should have to go to a judge and obtain a warrant based on probable cause, just like the 4th Amendment of the Constitution promises. These rules are the same that have been in place for over 200 years for traditional surveillance. The judge's role is an important part of tradition of checks and balances, a human role. Even when instant replay is used, a human determines if there is enough evidence to overturn a call on a field. Like a referee, sometimes a judge might get it wrong, but that impartial perspective, the neutral arbiter, is just as important to the law as it is to baseball. I'll be joining Senator Katz and opposing the Majority Report. Please join me so that we can get to the Minority Report that requires a warrant for any non-emergency cell phone surveillance. Please protect the Constitution and follow my light. Thank you for your time.

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

Senator **BURNS**: Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today to support the Majority motion and I hope we'll keep that in mind that this is a Majority motion. It's already been said by the good Senator Valentino, all three of the Senators on this committee saw that this was going to be a very damaging law if it passed. Frankly, I really don't know why we have this here today. I don't understand why this was

brought forth. As has already been mentioned a couple of times, there are no complaints about abuse of this in this state. There are no complaints from the third party people that keep these records or from any issues of abuse by the police or the prosecutor's office. I think we have to get back to what the bill actually says, not what all the, from my perspective, hype is. This is talking specifically about local information. You've had hand-outs passed to you tonight, at the last moment, talking about tracking, talking about content information, and many other things. That's not what we are talking about tonight. We're talking about simply location information, when they are ping the phone to find out where that phone was at a particular time. I just ask you, if nothing else, if you don't remember anything else, that you keep that in mind. That's exactly what this L.D. 415 is talking about. Not all the other things. All the other things require the probable cause that you heard so well articulated by the good Senator from Kennebec, Senator Katz. Law enforcement does that already. They are used to doing that. They know how to do that. They do it very well. When they establish probable cause to get that information, they go forth and they go through the effort of getting a search warrant. We're talking about location information. It's a very simple process compared to the other riggers that you have to go through for a probable cause warrant. This requires a court order. It's not done arbitrarily by the police officer or by the prosecutor's office. It's done through a court order. Issued on the third party to get that information.

I think we missed the point here. This tool to law enforcement and the prosecutor's office is something that's been used for decades, since we've had the availability to find out where cell phones are when they ping a tower. Back when I was doing some of these cases we didn't have that available to us. Can you imagine the man hours that it takes to run down every single possibility, every single possibility that somebody was in the vicinity at the time of a crime? This can narrow that down greatly. The issue of the bombing in Boston was referred to. Thousands and thousands of cell phones were being used that day after that incident occurred. It would have been a physical impossibility. There are no exceptions in this law to allow law enforcement to do otherwise. It would have been a physical impossibility to obtain that location information that day. Then can you imagine the follow-up three days later to those thousands of cell phones that were pinged? Absolute impossibility.

It seems like, ladies and gentlemen, that I've been arguing with attorneys all my adult life and nothing has changed here. I certainly don't claim to be an attorney or be eloquent as they are. I'm not an attorney. I don't know how to run a restaurant. I do know a little bit about this type of work. I remember some of the same arguments at the end of my career when the advent of DNA came into play and we were able to use the DNA process to specifically identify people. The same arguments came forth. This is going to be abused. This is going to put innocent people in jail. On and on and on. The police are going to take advantage of it. They are going to misuse it. Ladies and gentlemen, I can't imagine what criminal investigation would be right now if we didn't have the process of identifying people with DNA. It was just the same as when we learned how to identify people with fingerprints. This is a process that is available to the police right now, and the prosecutors, to help eliminate suspects as well as identify suspects that should be pursued further through investigation. That allows the prosecutors and the police to pursue that investigation in the right direction, gather the

probable cause, and gather the proof beyond a reasonable doubt that is necessary to charge somebody and convict them in court.

I hear over and over again the terminology about snooping. Snooping into our business. I just can't imagine why anybody thinks that the police have nothing better to do than to snoop into your personal business when they are investigating a case of a missing child or a homicide investigation or a domestic violence investigation. It's just ludicrous to think that. That's not to say that there aren't people in positions of authority that don't abuse their authority. There are tens of thousands of police officers and prosecutors across this country and I know there are abuses of authority. I'm here to tell you I believe it's a rare occasion. You've got to have some trust in the people you put in a position to enforce the law, to protect us, and protect your children and your grandchildren. I'm a parent and I'm a grandparent. I know right now that if something happened to one of my children tonight and this process could be used to eliminate suspects and to find the one that needed to be investigated and to pursue that investigation immediately, not days later, I would want it done, especially if it resulted in saving somebody's life. We hear about wiretapping. That's a red herring. This has nothing to do with wiretapping. This isn't about listening in. This isn't about gathering e-mails or gathering texting data or any of that stuff. That all requires a warrant. By the way, I think all of you know wiretapping can't be done in this state by state agents. It has to be done by the federal agent. All those other things I mentioned, those have to be done, as you know, by a search warrant based on probable cause and a supporting affidavit.

We've heard a lot of discussion this evening about our prosecutors. I'm going to reiterate what was said by the good Senator Kennebec, Senator Katz. I'm just using them as an example and I'm doing that because they have strongly, strongly urged that this bill not be passed. I've known these prosecutors for about four decades now. I've worked with them year after year after year, just as I have many other prosecutors. These are the people that we put in charge of our criminal investigations in this state and law enforcement in this state. They may be from your side of the aisle. They may be from my side of the aisle. They are the people that we entrust to make sure that the laws are enforced fairly, with equity, and completely. They do that. I can't really remember how many prosecutors, Attorney Generals, that I have worked for in my career. Every one of them, in my opinion, no matter what side of the aisle they came from politically, have done an extremely good job to protect all the citizens of this state. Two of those top prosecutors that are now in office strongly, strongly urge that this bill not go forward. I'm going to just take a minute, if I may, Mr. President, to read a couple of excerpts from Deputy Attorney General William Stokes, who is in charge of the criminal investigation division in our Attorney General's Office. He, too, has worked for many Attorney Generals. I quote him, he says, "If law enforcement is required to obtain search warrants in every case in which location information is requested this valuable investigative tool may become unavailable in most cases. I can give you numerous examples of historic cell tower location information that has been critical to either solving a murder or providing an alibi to an innocent person." I think that bears paying attention to. This isn't somebody who has something to gain here or an axe to grind. This is somebody that we put in a position of authority to make sure that the laws are properly enforced in this state. I have great trust in them and their institution. Another quote from Deputy Attorney General Bill Stokes regarding L.D. 415, "Has the

potential to be a real and substantial harm by jeopardizing the investigation of major criminal offenses, including murder, drug conspiracy, child pornography, and other offenses." I think that statement bears a lot of weight and it is worth considering, considering its source and considering its merits.

This cell phone location information is not something that police officers run around obtaining. Police officers have a set of standards and routines that they follow, regardless of what department they are in. They are either going to be going for this court order through the District Attorney, we have eight District Attorney districts in this state, or through the Attorney General's Office. They are not going to be willy-nilly going after this information on their own. Once again, please keep in mind, this is location information only. It's not active, live tracking to follow you from Augusta to Fort Kent. It's not information about your texting. It's not information about your e-mails. It's not wiretapping. Ladies and gentlemen, it's not snooping.

I'd also like to just speak very quickly about a couple of pieces of information that I've received this evening. One is from Chief of Police of the Auburn Police Department. Chief Phillip Crowell. I don't know this gentleman but I know that if he's risen to that point in his career, Chief of Police, in a major city in this state that he has some credibility, from my perspective. He urges Ought Not to Pass on this bill. It's an extremely valuable tool from his perspective as a professional law enforcement officer. Another piece of information that I received is from the Maine Coalition to End Domestic Violence, a coalition that all of us hold in great high esteem here in this Body. From Julia Colpitts. She has urged us Ought Not to Pass on this because of the value that it brings to domestic violence investigations and protection of victims of domestic violence. I think these bear a lot of weight for consideration.

I'm just asking you, ladies and gentlemen, to put this in perspective. This is a tool that's available to law enforcement, just as many other tools that have come along with the advent of technology, to allow law enforcement to do a better job, to do it quicker, and to not only gather information that's going to eventually indict somebody but also to gather information that's going to vindicate somebody, just as important as far as I'm concerned. For every person who is accused in most of these situations there are many many more that are vindicated. I think that's an important consideration. If we take this tool away we not only are going to be an outlier in this country but we're also going to, in my opinion and my professional opinion, make law enforcement much more difficult. We're going to turn the clock back and there is going to be much more scrutiny with those people that we could easily eliminate very quickly in many different cases. I won't belabor this anymore. I just would ask you to please keep in mind what we're talking about. We're talking about location information only. That's the only thing that bill refers to. Nothing else. There are no exceptions for emergency situations in the bill. If we take this away from law enforcement I believe you are doing a disservice to your constituents, to us as parents and grandparents, and to the state of Maine. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wonder how did any crime ever get solved before the government had the ability to snoop on our

every move? There is no right to privacy spelled out in the Constitution but it is inferred over and over. Former Supreme Court Justice Louis Brandeis probably said it best; we have a right to be left alone. That right has developed into a liberty protected by the Constitution and affirmed by court decision after court decision. Make no mistake, cell phone tracking is an invasion of our privacy. It seems to me I should be able to come and go as I please without the government knowing what I'm doing or where I'm going. If government has a good reason to know where I go all they have to do is claim an emergency. They don't even have to go get a warrant under this bill. Friends should be able to come and visit my house when I invite them and it's none of anyone's business who is there or when they are there. The government doesn't need to know where I go, or when I go, unless there is a good reason. Then all they have to do is claim an emergency. What is the big deal? Please vote against the pending motion.

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

Senator **TUTTLE:** Thank you Mr. President. Members of the Senate, from time to time I use the quote of saying, like the previous ten speakers, I have nothing new to add. I do have something to add here. Being a member of the Judiciary Committee for the first time, it's sort of been a learning experience. As you can see, as has been mentioned before, all three of the members of the Senate on the committee supporting the Ought Not to Pass Report. I consider myself a civil libertarian. I always have. I always believe in the rights to do things as we see as Americans. Senator Katz quoted Benjamin Franklin and others, but I think there comes a time when you have to do the right thing for public safety. I think the right thing here is to support the Ought Not to Pass Report. L.D. 415 would go much further than the current law, not only in requiring a probable cause warrant at an early stage when probable cause does not yet exist but in requiring that law enforcement report to the suspect that his or her local information has been obtained with a detailed summary of the investigative facts even before the individual has been arrested or charged. While the bill does allow extensions of a three day deadline for this notification, the bill would require staff to constantly monitor these deadlines in order to avoid accidentally jeopardizing an important investigation. As the Senator from York said, that's why we have the large fiscal note on the bill. L.D. 415 would require a law enforcement officer or a corrections agency to acquire a court issued warrant in order to obtain past or current location information for a cell phone or other electronic device. Aside from any questions this bill has in general matter, there is a specific problem with the Department of Corrections. None of the exceptions in the warrant require considering the situation of a prisoner having a cell phone or other electronic device. As you may know, cell phones have been found in the possession of prisoners in correctional settings. If the Department of Corrections investigator was to get a tip indicating a prisoner had such a device and was planning to use it, he'd have to wait to get a warrant before using available technology to locate it through the phone service provider or other such means. Getting a warrant could take a considerable amount of time, especially at night or weekends or during holidays. In the meantime the cell phone or other electronic device could be in use and the incident would already be occurring or the offender had already escaped. I have serious concerns that this proposed

legislation would significantly impede our ability to conduct investigations of major crimes, including murder, drug conspiracy, or child pornography. If law enforcement is required to obtain a search warrant in every case in which location information is requested this valuable investigative tool may become unavailable in most cases. As had been mentioned before from testimony of the Assistant AG, this is a classic case of a solution in search of a problem. As the good Senator from York, Senator Valentino, said, there is no need for this L.D. 415. Thank you, Mr. President.

At the request of Senator **SAVIELLO** of Franklin, Reports **READ.**

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today to oppose the pending motion. Our Constitution was designed to make it challenging for the government to impede upon our rights. You see that in the 1st Amendment. You see that in many other amendments. As a result a large, large body of law has developed to make sure that there is the utmost justification when government, state or federal government, looks to impact your privacy. We have heard many examples tonight about how this could impact investigations and could bring the wheels of progress to almost a grinding halt in putting the bad guys behind bars. Well, this law that is being proposed does create a higher burden on law enforcement, but when it comes to our constitutional rights I think the burden should be greater on law enforcement. At times we should have exceptions. Those exceptions are in this proposal. That's why we need to oppose the pending motion. We've heard about the great tragedy that happened in Boston. The City of Boston was shut down, folks. There was grave and eminent danger. I cannot think of a bigger emergency in recent history. Clearly if this law was in place in the state of Massachusetts law enforcement would have the ability to immediately, spontaneously, work with the cell phone providers. We've heard discussion about missing children. Clearly another emergency. This is a situation where it does take a small extra step, a needed step, a step that was most likely envisioned to a certain degree in terms of effort, effort that our founding fathers wanted to make sure that government had to put forth in order to impact the rights that are granted under the Constitution. In this situation in this day and age your cell phone, your smart phone, tells your whole life's story through the places you have been, to the foot the places you have stopped, how long you have been there, and the patterns of your behavior. From all of that information so much can be gleaned. In order to make that accessible by government, I believe, that they should have a higher burden, a burden that requires them to show probable cause. If there is an emergency, any emergency, they can bi-pass the probable cause, bi-pass the right to get a warrant, in order for public safety. Often it is not popular, and it may be in opposition, for very well respected individuals to stand up for what they believe is the constitutionally right thing to do. This is one of those situations. We have very good law enforcement in this state, some of the best in the country. We have some of the best prosecutors in the country. We have a history of having some of the best Attorney Generals in the country. I know our Office of Attorney General does the right thing right now. However, there are circumstances where the wrong thing could happen. I would hate to have that happen to any of us, have that happen to my

daughter, or have that happen to anyone. Lastly, as a lawyer, having the probable cause requirement is the right thing to do, is not a high burden to prove, and also strengthens the criminal investigation, in my opinion. Ladies and gentlemen of the Senate and Mr. President, I would urge you to oppose this pending motion so we can then take the next step to putting this constitutional safeguard into law. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I learned this evening, based on the note on the top of my page, that I have common ground with the Senator from Somerset, Senator Thomas, because my first note is that I was getting the impression from all the previous speakers that 40 years ago no crimes were solved. As I view it, if convenience were sufficient justification for what private information about you or me should be available without a warrant than we would not require any warrants. The fact that technology has made this easy, has made it available, but it is still information about us. It should be subject to the same bar. As I view it, the fiscal note, and the somewhat greater burden on law enforcement, is the price of liberty. They are not unreasonable. They are important. They are worth requiring law enforcement to do because it both protects the rule of law and our liberties. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the pending motion. I'd just like to take a moment to go back in time. In 1986, when Walk Like an Egyptian was at the top of the charts, that's when the federal law, the Electronic Communications Privacy Act, covering cell phone data was passed. Cell phones were the size of bricks and most people didn't have them. Very few had them. Too modern. Too expensive. Didn't work all that well. The world wide web hadn't been invented yet. It's not a big surprise that Congress in 1986 didn't think to put a warrant requirement in place for cell phone tracking because most people didn't have cell phones. The companies certainly weren't storing data about people's every move. Now almost everyone has a cell phone and the communications companies are keeping an enormous amount of data, including our geo locational data, which is a record of your movements around the state of Maine. Some people think that because the cell phone company is the one that has all of this data about you that it shouldn't be covered by the probable cause warrant requirement of the Constitution. They say that the data belongs to the third party carrier, not you. I don't believe that that's right. I believe the information about where you go is highly personal and what you do with your time and where you go and who you hang out with says a lot about a person. If law enforcement wants to use the data to track you or me they should have a warrant. It's that simple.

Some people might say this is a federal issue and I agree that Congress should act. I'm proud of Congresswoman Chellie Pingree who is a co-sponsor of the Geo Locational Privacy and Surveillance Act, along with Republican Representative Jason Chaffetz of Utah. I know that this is the Senate version of the same bill. I don't want to wait for Washington to act. We have a

responsibility to protect Mainers' privacy. I'm going to support the Minority Report once we vote red on this issue because I think it's wrong for the police to spy on people without a warrant. I will say one of my close friends is one of the best sheriffs in the state of Maine. I'm sure he's going to be talking to me about how I am testifying. Whether we are talking about cell phones or drones, the constitutional right to privacy should apply.

I see there is a fiscal note on this bill for two full-time positions at the Attorney General's Office to handle all the requests that law enforcement want to make for this data. That doesn't make sense. How many hundreds of thousands of Mainers are they spying on if they are going to need two full-time people? Our lives have changed in the last 20 or 25 years with the computer age and I think a lot with the Patriot Act. I've been scared to death about what my information is and who has it. Credit card companies know what I eat and when I eat and when I buy it. They know everything about us. Everyone wants to know everything about us. That scares the daylight out of me. I don't want to take away police's right to be able to catch criminals, but I want to also protect every single Maine citizen's right to privacy. That's the issue with me. I think we should have that right to privacy. There are going to be other bills coming forward about this same issue and I'll probably support one and not another. This is one that I think is that important. I think the Majority Leader did a great job in explaining the constitutional aspects of that, which I am not going to touch upon because I am not a lawyer. Ladies and gentlemen, I would ask you to vote in opposition to the Ought Not to Pass Report that is before us and move on to the Majority Report. Thank you.

On motion by Senator **THOMAS** of Somerset, 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 Valentino.

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I just rise today to talk about a couple of points that I've heard throughout the debate. One is that probable cause is a much higher standard than the articulable suspicion that you need in order to get a court order. Remember, you need to have a judge sign both, whether it's a court order or whether it is a warrant on that. You still have to prove that there is a reason to get location information. We've heard a lot about the marvelous technology that we have in our pockets today. I would say one of the cases on the GPS on the car really was not on point. That was the U.S. vs Jones. That was when you actually took a device and put it on somebody's private property. That really wasn't on point to what we're talking about. I also want to read just a little bit from Major Chris Grotton of the Maine State Police. One of the things that concerned them is that the bill focuses on the individual, using the term "owner" or "user". "Our investigations and resulting court orders focus on the cell phone number, not the individual. Frequently we do not know who owns the device, nor do we know who is using it at any given moment. In the case of a purchased over-the-counter phone, with prepaid minutes, there is no subscriber and the owner is not required to provide any valid identifying information. The only entity that we can consistently positively identify is the cellular carrier who owns the data." This is where the court order goes, to get this location

data from the provider, not based on the person but based on the phone number.

The other thing is that we've heard about 1986 and where were you in 1986. I can tell you that in 1986 I had just gotten married. I didn't have a cell phone. I didn't have a cell phone when I was in high school. I didn't have a cell phone when I was in college. People are saying; how did police ever solve crimes back then with the cell phone? I would argue; how did we ever get around without our cell phones? My goodness, I remember the days when we had phone booths and we had to go make a phone call at the phone booth. I would say if you want law enforcement not to use the latest technology then everybody take your cell phone and throw it away. You know they can track you with your cell phone. You know you have no privacy. Don't have a cell phone. Leave it at home. You're not going to do that, so why are you going to tie the hands of law enforcement and say, "You can't use the latest technology but I'm using the latest technology and I know this device violates my privacy but I still want it in my pocket because it's easy and it's convenient."

We also heard people talk about the Boston Marathon incident. That was horrible. Yes, that was an emergency. Of course that was an emergency. We also heard other cases about missing children. Is that an emergency though? Is it an emergency when a 15 year old does not come home or a 16 year old does not come home or a 17 year old does not come home? Is that an emergency? What if they don't come home the next day? What if they don't come home the next morning? Is that an emergency? When is the emergency that you have probable cause to go in and get a warrant? Why not have the lower standard of the articulable suspicion to go in and get a court warrant? My daughter lives in California and I usually talk to her every day. I called her the other day and she didn't call me back. I called her back the next day. She didn't call me. Then I forgot about it. A few days later I kept texting about every hour, "Call me, Call me." Finally it was, "Text Me." Then it was like, "OK, I'm really worried now, Katy. Where are you? Just text me." I was really worried. At 3 o'clock in the morning I get a text, because we're on different time zones, and it's like, "Sorry, Mom. My phone was off." Four days? I didn't know if she was dead or alive and she was in California. When do you determine, as a parent, if that's an emergency that your 15 or 16 or 17 year old has not come home? When do you define that? When do you go to the police and say, "Can you track that cell phone? Can you find out if my child is dead or alive or moving or where that phone is?" I think we have adequate provisions in place and I urge you Ought Not to Pass.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#109)

YEAS: Senators: BURNS, COLLINS, CRAVEN, CUSHING, HAMPER, HASKELL, HILL, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, YOUNGBLOOD

NAYS: Senators: BOYLE, CAIN, CLEVELAND, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, GRATWICK, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, THOMAS, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **VALENTINO** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-106) **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.

The Chair laid before the Senate the following Table and Later Assigned (5/22/13) matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Sale of Certain Property in Augusta to Motivational Services, Inc. H.P. 245 L.D. 340

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-201)** (1 member)

Table - May 22, 2013, by Senator **LACHOWICZ** of Kennebec

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

(In House, May 21, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 22, 2013, Reports **READ**.)

On motion by Senator **KATZ** of Kennebec, 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 Kennebec, Senator Lachowicz.

Senator **LACHOWICZ:** Thank you Mr. President. I'd like to speak about this bill because this bill gave me a lot of anguish. For many years, up until recently, actually my office was in the neighborhood right next to AMHI because of the agency I worked for. I lived in Waterville and worked in Augusta. As many of you

know, I worked for 25 years in mental health. I've worked with patients in state hospitals. I've worked with patients who have been found not guilty by reason of insanity. That's the reason for this bill. I have the utmost sympathy for the city of Augusta. I know the good Senator from Kennebec, Senator Katz, Representative Pouliot, and Representative Wilson from Augusta also had the utmost concern for their constituents. I was supportive of it. However, there was a problem. What happened was that the former AMHI, now Riverview, moved these NCR patients into a neighborhood without notifying the residents of the said neighborhood. A very nice neighborhood. An uproar happened. I appreciate what Representative Wilson tried to do for the people of that neighborhood. As I said, there was a problem. The people on my committee really did not like the fact that this bill would have gone directly to a sale without any sort of appraisal and they were concerned about the similarity to this and what happened with the prison in Thomaston a few years ago. That actually wasn't my problem with it. I was all for this bill because I wanted us to do something for the people of Augusta because I believe they do share a disproportionate share of dealing with some pretty difficult residents. Other people in the state do not have to share because they have the only hospital with a forensic unit in the state. The problem was that the Department of Human Services testified that even if they were to sell these two buildings to Motivational Services that those patients were not going to be moved back in there. In fact, they weren't going to do that because the federal government would still consider them institutionalized and, therefore, they wouldn't receive any benefits because these two buildings are, in fact, surrounded by the hospital grounds of the old AMHI complex. That was my problem with it. It didn't solve the problem. I truly want to solve the problem that the Mayfair area of Augusta is going through. This bill doesn't, in fact, do that, which makes me very sad because I was very supportive of Representative Wilson's bill. We have had hours of discussion about it and have yet to find a solution that would actually help it. There we are. That's why I'm pushing this Majority Ought Not to Pass Report. I think some people on the committee felt the same way I did, that it didn't actually solve the problem. I think some people, I know some people on the committee, felt like they didn't to just sell outright two buildings without any sort of appraisal or any sort of bidding process. Thank you, Mr. President.

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

Senator **KATZ:** Thank you very much Mr. President. Men and women of the Senate, I know the hour is late, but I would like to just briefly describe, from my perspective, why we should vote against the pending motion. As the good Senator from Waterville, Senator Lachowicz, has indicated, this involves three homes, or three buildings, on the Riverview campus. These were originally doctor's homes, going way back. Then, as things changed, they were converted into group homes. As forensic patients of the hospital were ready for the next stage of release, they would go to stay in these homes on the AMHI campus. They were run by Motivational Services. They were forensic patients. Medicaid came along and said that those people aren't going to be eligible for Medicaid services anymore because they were living in a state hospital facility grounds. They were not eligible for Medicaid anymore. What the department did was it moved those folks, literally, across the street into a neighborhood where it caused a

lot of consternation because folks in the neighborhoods were concerned that now they had forensic patients living next door in this group home that Motivational Services had acquired and was using. The Representative Wilson, my colleague from Augusta, had the idea of why don't we see if we can sell the homes on the AMHI campus to Motivational Services. They could come back and live in them where they were before. Everyone would be happy. Well, the problem was that you can't do that because Medicaid continued to take the position that if they are still within the footprint of the hospital ground, even though somebody literally owns those buildings, they are still not going to be eligible for Medicaid. There we are. Now we've got three vacant buildings. Here's the choice. First choice is they can be torn down, which is the plan of the department currently. It's on their work plan to do. By the way, that will cost us about \$50,000. We could do that. Secondly, as the Minority Report suggests, the Commissioner could be authorized to sell them. Not ordered to sell them, but authorized to sell them if the Commissioner thought it made sense for the department to sell them. Those would go out and the Commissioner and the department could put whatever restrictions they wanted on that sale, I guess. They could say they could only be used for group homes, in which case, by the way, Motivational Services is still interested in buying them. Not for forensic patients, because they can't put them back there, but for other civil patients. Maybe somebody else would want to come in and bid on them for group homes. I don't know. Again, it would give the Commissioner the authority, if the department thought it appropriate, to sell those because he doesn't have the authority to do that now. It would, obviously, have to go through an appraisal process. We'd have to go for a high bid. Maybe the State could get \$200,000, \$300,000, or \$400,000, who knows how much, income from those facilities if the Commissioner thought it was a good idea to sell. That's all the Minority Report does. It gives the Commissioner that authority to sell them. It could turn a State expense of about \$50,000 potentially into a State gain of several hundred thousand dollars. All the Minority Report would do is to give the Commissioner the discretion to pursue that result. For those reasons, I ask you to vote against the acceptance of the Majority Report. Thank you, Mr. President.

At the request of Senator **GOODALL** of Sagadahoc, Reports **READ**.

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

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

THE PRESIDENT: The Senator may pose her question.

Senator **CRAVEN:** Thank you Mr. President. I wondered if anybody could answer whether or not Medicaid could be billed for anybody on the grounds of an institution and be reimbursed, whether they were forensic patients or not? Thank you, Mr. President.

THE PRESIDENT: The Senator from Androscoggin, Senator Craven poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Lachowicz.

Senator **LACHOWICZ**: Thank you Mr. President. Senator Craven, what the Director of Riverview informed the State and Local Government Committee was that no matter what patients lived in those houses that Medicaid would not be able to be billed, nor would they be able to collect disability payments because they would be considered institutionalized because they would be living on the grounds of an institution, even if someone else owned those buildings, because those buildings are entirely surrounded by the grounds of Riverview Hospital.

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

Senator **KATZ**: Thank you Mr. President. Men and women of the Senate, I think to further answer that question. I would maybe give a slightly different answer than my colleague from Kennebec. I think the issue is somewhat in doubt. All I can say is that whatever the state of the law is there is at least one bidder. Again the amendment takes Motivational Services out of the picture. They aren't named specifically any more. At least one bidder, Motivational Services, would be interested in still pursuing this under whatever the law is. There is some hope that they could still be turned into halfway houses. I just might add, Mr. President, that having halfway houses be on the campus of Riverview is somewhat comforting to a community which feels it is bearing a huge burden by all of the both forensic and civil patients who populate our city. Thank you, Mr. President.

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

Senator **HASKELL**: Thank you Mr. President. I request permission to ask a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **HASKELL**: Thank you Mr. President. Having been aware of other places where there was a specific piece of property intended to be sold, I wonder if this piece of property has been offered for consideration by the Bureau of General Services. Has this gone through the regular process which is set up for the State of Maine for the sale of State property?

THE PRESIDENT: The Senator from Cumberland, Senator Haskell poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Lachowicz.

Senator **LACHOWICZ**: Thank you Mr. President. That was one of the concerns of committee members, that there has been no recent appraisal done on these, that there was not a competitive bid process that had begun. The Committee Amendment "A" does, in fact, take away.

THE PRESIDENT: The Chair would remind the member that what is in front of us is the Majority Ought Not to Pass Report and there are no committee amendments in front of us.

Senator **LACHOWICZ**: Thank you Mr. President. The Bureau of General Services has not gone through any of that process.

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

Senator **KATZ**: Thank you very much Mr. President. Men and women of the Senate, a couple of points, if I could. The reason the Commissioner can't move forward now is because this property is within the Capital Planning Commission and there are different rules which apply within the Capital Planning Commission that tie the Commissioner's hands at this point. Having been one of the people who participated in the last Legislature's discussion with respect to the Warden's home in Thomaston, I can assure you that in our lifetime there will never be another piece of property sold without appraisals.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#110)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFISKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **LACHOWICZ** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Table and Later Assigned (5/22/13) matter:

SENATE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Timber Harvesting on Land Managed by the Division of Parks and Public Lands"
S.P. 184 L.D. 491

Majority - **Ought to Pass** (8 members)

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

Table - May 22, 2013, by Senator **THIBODEAU** of Waldo

Pending - motion by Senator **PATRICK** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS** Report (Roll Call Ordered)

(In Senate, May 22, 2013, Reports **READ.**)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#111)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, SHERMAN, TUTTLE, VALENTINO, THE - JUSTIN L. PRESIDENT ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, YOUNGBLOOD

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **PATRICK** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED.**

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

Ordered sent down forthwith for concurrence.

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

Bill "An Act To Amend the Laws Governing Weight Tolerance for Certain Vehicles"

H.P. 1065 L.D. 1484
(S "A" S-120)

Table - May 23, 2013, by Senator **JACKSON** of Aroostook

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-120)**, in **NON-CONCURRENCE.**

(In House, May 20, 2013, **PASSED TO BE ENGROSSED.**)

(In Senate, May 23, 2013, on motion by Senator **MAZUREK** of Knox, Senate Amendment "A" (S-120) **READ** and **ADOPTED.**)

PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-120), in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Table and Later Assigned (5/21/13) matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act Relating to the Sales Tax Exemption on Depreciable Equipment Used in Commercial Wood Harvesting"
S.P. 272 L.D. 734

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-99)** (8 members)

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

Table - May 21, 2013, by Senator **HASKELL** of Cumberland

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

(In Senate, May 21, 2013, Reports **READ.**)

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

READ ONCE.

Committee Amendment "A" (S-99) **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.

Senate at Ease.

Senate called to order by the President.

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

Off Record Remarks

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

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

LEGISLATIVE RECORD - SENATE, THURSDAY, MAY 23, 2013

On motion by Senator **GOODALL** of Sagadahoc, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 28, 2013, at 10:00 in the morning.