

# 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

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

In Senate Chamber  
Wednesday  
June 19, 2013

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

Prayer by Senator Margaret M. Craven of Androscoggin County.

**SENATOR CRAVEN:** Thank you Mr. President. Good morning. Let us be in a mindful state of gratitude. I'm again going to quote my favorite author, John O'Donahue.

May the angels in their beauty bless you. May they turn toward you streams of blessing. May the angel of awakening stir your heart to come alive to the eternal within you, to all the invitations that quietly surround you. May the angel of healing turn your wounds into sources of refreshment. May the angel of the imagination enable you to stand on the true thresholds, at ease with your ambivalence and drawn in new direction through the glow of your contradictions. May the angel of compassion open your eyes to the unseen suffering around you. May the angel of wildness disturb the places where your life is domesticated and safe, take you to the territories of true otherness where all that is awkward in you can fall into its own rhythm. May the angel of Eros introduce you to the beauty of your senses to celebrate your inheritance as a temple of the holy spirit. May the angel of justice disturb you to take the side of the poor and the wronged. May the angel of encouragement confirm you in worth and self-respect, that you may live with the dignity that presides in your soul. May the angel of death arrive only when your life is complete and you have brought every given gift to the threshold where its infinity can shine. May all the angels be your sheltering and joyful guardians.

Pledge of Allegiance led by Senator Roger L. Sherman of  
Aroostook County.

Reading of the Journal of Tuesday, June 18, 2013.

Doctor of the day, Representative Linda Sanborn, MD of Gorham.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Promote the Safe Use and Sale of Firearms"

H.P. 874 L.D. 1240  
(C "B" H-451)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-450)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-451)** (5 members)

In House, June 13, 2013, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)**.

In Senate, June 17, 2013, Reports **READ**. Motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report, in concurrence **FAILED**. Subsequently, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)** Report **ACCEPTED**, in **NON-CONCURRENCE** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)**, in **NON-CONCURRENCE**.

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

Senator **GOODALL** of Sagadahoc moved the Senate **RECEDE** and **CONCUR**.

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 Cumberland, Senator Plummer.

Senator **PLUMMER:** Thank you Mr. President. Men and women of the Senate, this is a bill that we voted the other day to, in fact, support the Report B and I would encourage people to stay with that and that would be if you intentionally, or knowingly, sell a firearm to a prohibited person there would be consequences. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I won't make this very long. We all know that we've been talking the last couple of days about special interests groups and the impact that they might have on some of these bills that we've run. My only special interests group is the people that elected me and sent me here. Those are the people that I'm standing up right now representing. When I look at the issue I look at it as a statewide issue. People are very concerned about what's going on, not only in the country but also in the state. I think many of you might have a press release in

front of you from the Portland Press Herald that just came out about a problem that we're having where people are buying guns from people that are not prohibited to own guns. Committee Amendment "A" deals with that in a direct fashion and makes it a Class C or Class D crime if you do that. Why we would want to protect people that can't own or possess guns and can't get through a background check is beyond me, but that seems to be where we wanted to go last week, or earlier this week, and it seems to be where we want to go now. I hope that we all follow the Recede and Concur motion that we have now and try to get this back down and get it taken care of. Thank you very much, ladies and gentlemen.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Goodall to Recede and Concur. 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 (#319)**

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **RECEDE** and **CONCUR**, **PREVAILED**.

**Non-Concurrent Matter**

Bill "An Act To Amend the Laws Governing Pawn Transactions" H.P. 64 L.D. 71 (C "A" H-392)

In Senate, June 11, 2013, **PASSED TO BE ENACTED**, in concurrence.

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (H.P. 1133), in concurrence).

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-392) AS AMENDED BY HOUSE AMENDMENT "A" (H-551)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **GOODALL** of Sagadahoc, the Senate **RECEDED** and **CONCURRED**.

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Senate at Ease.

Senate called to order by the President.

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

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**ORDERS OF THE DAY**

**Unfinished Business**

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

The Chair laid before the Senate the following Tabled and Later Assigned (6/18/13) matter:

JOINT ORDER - Joint Study Order Establishing the Blue Ribbon Commission To Study the State Board of Corrections and the Unified County Corrections System H.P. 1132

Tabled - June 18, 2013, by Senator **JACKSON** of Aroostook

Pending - **PASSAGE**, in concurrence

(In House, June 17, 2013, **READ** and **PASSED**.)

(In Senate, June 18, 2013, **READ**.)

On motion by Senator **GOODALL** of Sagadahoc, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (6/18/13) matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Require the Department of Health and Human Services To Request a Waiver To Prohibit the Use of Food Supplement Benefits for the Purchase of Taxable Food Items (EMERGENCY) S.P. 505 L.D. 1411

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-308)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-309)** (5 members)

Tabled - June 18, 2013, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-309)** Report

(In Senate, June 18, 2013, Reports **READ**. Motion by Senator **CRAVEN** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)** Report **FAILED**.)

On motion by Senator **GOODALL** of Sagadahoc, 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 very much Mr. President. Men and women of the Senate, just so we're clear on what we're voting on, at least from this Senator's perspective, if you believe that we ought to be using hard-earned taxpayer dollars to buy junk food for people, contributing to their poor health, you will vote no. If you disagree with that and you think that the Supplemental Nutrition Assistance Program ought to be providing nutritious foods, you will vote yes. Thank you, Mr. President.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, this is something that the federal government does not allow us to do and actually to force the department to change their state plan, or to request a waiver, will cost a lot more than what we spend on the purchase, I would imagine, soda or chips or whatever it is that is taxed. The real problem in Maine is Maine ranks seventh in the nation and the first in New England in the percentage of our population who are very low in food insecurity. I think that people misunderstand who actually uses food stamps. If you work at Wal-Mart or you work at McDonald's or you work as a nanny or you work in a lot of low income jobs, you may work 40 hours a week and have two children and qualify for food stamps. I think that many people think that folks get free food stamps because they sit around and don't do anything. I don't believe that. I believe that the 1% garners all of the profits and we expect people to work for minimum wage and raise their children on less than what they can manage on. Treating people who are poor differently, I think, undermines their humanity and undermines our humanity for treating them that way. I would encourage you to vote in opposition to the pending motion. 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 rise today in support of the pending motion. I feel this Body has dealt with some very important issues here. We've had good debate on some issues. It's perplexing to me that we would send a message to the citizens of Maine, who we have also said that we feel should be eating healthy nutritious food. In fact, we've said in this very Chamber, Mr. President, that we should label foods to identify whether these are natural or not. To me, it seems perplexing that we would want to encourage individuals in this state, who may be working their way up from a difficult position, to use those benefits in a

manner that many of us have already voted to say are not what we consider appropriate. When we have voted on some of the legislation here regarding obesity, and when we've voted on legislation here regarding labeling, we sent a clear message to people how this Body feels. I think this is another opportunity for us to say it's not that we devalue people who may be in a difficult position. We all, at some point in our lives, in some way, face challenges, but it's not whether we fall down, it's whether we get up again. By providing them with these benefits, I think, the message is that we don't want them to stay in that situation and we want, as a kind and a supportive society that's been a beacon for other countries in the world, to say we take care of our poor and our downtrodden. I believe in this Chamber someone has said, "What you do to the least of me, you do unto me." I think this is an opportunity for us to send a clear message that we don't want people to think of processed foods or snack foods or what has been referred to as junk foods as a means to survive on. We want them to look at nutritious foods, that are also available to use their benefits for. Maine is a proud producer of many nutritious goods, from dairy to agriculture. I think this would be a clear message that we want to steer people in a better direction. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. A couple of things. First, in the interest of people not making mistakes here, this is printed on the calendar incorrectly. It's says Minority but then it says "A" (S-308) Report and it should be "B" (S-309) Report. I just wanted to bring that to everyone's attention. That is, in fact, what we're voting on, not the "A" Report, the Majority.

Secondly, I want to point out that prohibiting people, if it were legal, from selecting less healthy foods is less productive than teaching people the importance of making healthier choices and how to make meals with it. I disagree with the contention that the choices between people being expected to eat healthy foods or not. I think both choices are approached in this with that same aim and looking to do it in a productive manner or a manner that's not consistent with federal law, which is what this Minority Report is attempting to do. I would urge you to defeat this so we can get on to more productive solutions to this problem. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Just briefly. Again, in support of the Minority Report, sometimes I feel like I'm in Alice in Wonderland. This is one of those moments, that we would be debating whether to use public money so that people could buy potato chips and Twinkies. This bill was introduced on a bi-partisan basis. How it has turned into a partisan issue is beyond me. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I agree, sometimes I feel like I'm in Alice in Wonderland too. I do think that this bill stigmatizes poor people. I don't think that it's a bad idea to talk about people eating healthy or anything like that, but I do think that when a

mother goes in someplace with a young child every once in a while it's okay for them to get them a candy bar or something like that. I think that that's certainly something that I think we all try, to have our kids eat healthy, but to just say that you can't ever do that because you're poor seems to stigmatize them. I just wanted to say that we heard very recently, I think last night, about the unconstitutionality of bills. I'm reading from the Chief Executive's letter. "The bill's unconstitutional. I question why some would be so focused on passing unconstitutional laws rather than getting solutions to Mainers back to work." I would say that this probably applies too. We know this bill is unconstitutional, so I would ask that you don't support the pending motion.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, a Greek philosopher once said, "Let food be thy medicine and medicine be thy food." If we focused a little bit more on what we put in our mouths we might be able to avoid healthcare costs. Thank you.

**THE PRESIDENT:** The pending question before the Senate is Acceptance of the Minority Ought to Pass as Amended by Committee Amendment "B" (S-309) 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 (#320)**

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

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-309) Report, FAILED.**

Senator **GOODALL** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308) Report.**

On motion by Senator **GOODALL** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308) Report ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-308) **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.

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

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

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

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On motion by Senator **GOODALL** of Sagadahoc, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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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.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Assigned (6/7/13) matter:

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Senate at Ease.

Senate called to order by the President.

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HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Establish Superior Court as the Forum in Which Appeals of Agency Decisions Must Be Taken"

H.P. 791 L.D. 1119

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-384)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - June 7, 2013, by Senator **VALENTINO** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 7, 2013, 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-384)**.)

(In Senate, June 7, 2013, Reports **READ**.)

Senator **VALENTINO** of York moved the Bill and accompanying papers be **COMMITTED** to the Committees on **ENERGY, UTILITIES AND TECHNOLOGY AND JUDICIARY**, in **NON-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 PRESIDENT:** The Chair recognizes the Senator from York, Senator Valentino.

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, I rise today to make this reference. I happen to be on the Minority Report for Judiciary, but the vast number of people on the Judiciary Committee felt that this was a very important bill. In light of all of the other wind energy bills that we've had on the expedited process, I felt that this bill might be too important not to take a second look at it. I also feel that the best way would be to do this in conjunction with Energy, Utilities and Technology since they were the ones who really go through wind process and expedited. I think by having both of the committees meet together we will be able to take up this issue in the next session and bring it back to you. I hope you support this motion. Thank you.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, it's not that I object to having another committee take a look at this. There is a strong Majority Report on this already. It has been well vetted in Judiciary. I would not support the pending motion. I would support us debating it here on the Majority Report. Thank you, Mr. President.

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

Senator **CLEVELAND:** Thank you Mr. President. Men and women of the Senate, as the Senate Chair of the Energy, Utilities

and Technology Committee, we recognize that there are a number of issues before us this year that deal with the general subject that would have an impact, or are affected by, the Wind Policy Act. This is one of those. It may appear on its face that this is simply a procedural issue, that is which particular courts should have jurisdiction in the appeal process, when in actuality, because this bill came out stripping it of all other references to other expedited processes in the judiciary process, it has left it only relating to the process of wind. It is clear that this is one of those bills that affect the entire policy that we have in the wind. There is a big difference between process and policy. Policy has to look at the larger implications of separate individual acts that we do so that they are coordinated and they work in unison and coordination with the overall policy. One of the things I think we've come to realize very clearly, at least I have, is that these issues surrounding the wind policy in the state are important. They have many people who have various concerns and issues. These should be looked at. I think they should be done so in a coordinated and comprehensive way so that we can integrate all of those policies to some degree, as we did with the omnibus energy bill, trying to make a coherent and balanced policy that reflect all of the elements that effect the policy of this state regarding to wind. Because of that, I would accept the responsibility, gladly, to take this bill and others and make sure that we do a thorough, open, fair, and transparent process in reviewing this in coordination with other aspects of the Wind Energy Act.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Valentino to Commit the Bill and accompanying papers to the Committees on Energy, Utilities and Technology and Judiciary, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#321)

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

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

**ABSENT:** Senator: THIBODEAU

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **VALENTINO** of York to **COMMIT** the Bill and accompanying papers to the Committees on **ENERGY, UTILITIES AND TECHNOLOGY AND JUDICIARY**, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/18/13) matter:

HOUSE REPORTS -from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission" H.P. 435 L.D. 616

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (H-527) (9 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (H-528) (2 members)

Report "C" - Ought Not to Pass (2 members)

Tabled - June 18, 2013, by Senator **CLEVELAND** of Androscoggin

Pending - **ACCEPTANCE OF ANY REPORT**

(In House, June 17, 2013, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-527).**)

(In Senate, June 18, 2013, Reports **READ.**)

Senator **GOODALL** of Sagadahoc moved the Bill and accompanying papers be **COMMITTED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in **NON-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 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 state that these are very complicated issues, in light of even a three way report. This is an issue that has many passionate feelings on both sides, many issues dealing with economics, and many differences of opinions. Like the speakers before me on the previous bill, we need to look at these issues comprehensively. We need to do so in a manner that takes in all of the moving parts to make sure that we strike the right balance; the right balance for our natural resources, the right balance for the people in these areas where potentially wind power may or may not be located, as well as with the process upon which projects get approved. With the opportunity to look at these issues with more than just one bill, with multiple issues, in the Energy and Utilities Committee, I feel that it is time to do this. I feel it is time, and the right mix of individuals on the committee, to have a thorough and thoughtful debate, a comprehensive one that takes in and is inclusive of all voices, all opinions, to make

sure that Maine is, and continues to be, a leader in wind energy development, renewable power, but at the same time making sure that we develop these in a very thoughtful and responsible manner. On that note, I think this motion is appropriate. I think it is one we should support. I think it will be one, in the long run, that puts our state in a much stronger position. Thank you, Mr. President.

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

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is a very simple bill. The Energy Committee spent a considerable amount of time. There were hundreds of people that came and talked to the committee about this issue very faithfully, well into the evening. Our public hearing went from early afternoon until 8 or 9 o'clock that particular night. When you've got nothing to do, and we all have so much free time these days, you are home in the evenings, sitting in your easy chair, do you ever wonder what the people are going to say about the 126<sup>th</sup> Legislature? How will we be looked at by our greater communities? I do. Maybe it's because I don't have enough to do. This bill isn't, as the title would have you believe, about wind energy. It's about rights for people. Rights for people. If you live in an unorganized territory, back in 2008 the 123<sup>rd</sup> Legislature took the rights away from a whole group of people. Not fair. That's not what Maine is about. Arbitrarily taking rights away from people. That's all that this bill is about, the expedited permitting process as it affects people in the U.T. Done without any involvement of the people. Late, late in the session when things were being rapidly put together, put together to profit a few companies, most of which were not even from the state of Maine, in getting permitting done.

Last Monday we passed a piece of legislation saving a bird, Bicknell's Thrush. A beautiful little bird, if any of you are birders. Cute little gray cheeks. Some unbelievable mating traits that is a subject for another day. The Bicknell's Thrush resides above 2,700 feet in spruce forests. I don't know how many there are out there, but it certainly is an endangered species and I'm glad that we've saved it. Out of all the wind farm turbines that have been erected in the state of Maine there is not one above 2,700 feet, but we saved that bird so that there would not be any built there and I'm glad we've done it. We saved the bird but we took away rights of people. There isn't a person in this room that has their rights taken away from them. You live in communities. I believe there is somewhere in the vicinity of 35 or 40 communities in the state of Maine that saw fit to pass a regulation in the town, an ordinance, that says wind power can't come to that town. I expect there are some people in this room who live in those communities.

This bill only addresses those communities that are without rights today to do the things to organize, to get together, to say, "This is what we want our community to look like." There are communities that want to be in a permitting, an expedited, area. There are communities, both in and out of this area, 50% of the wind turbines that are existing, greater than 50%, in the state of Maine are not in expedited areas. You don't need an expedited area to get a wind farm in your community. The record shows that very clearly. The main thing that this bill does is it dictates to create a process where a community that is in an expedited area has a way to petition to get out. There is a way that they can petition to get in. Nothing was created that would say, "How do I



get out of one of these?" No rights for the people that live in an area that was selected by a group of people sitting in the back room saying, "These are the towns that we ought to set apart." This may be one of the most important pieces of legislation that tells the community where our heart is in regards to people's rights. That's what this is. It's just that simple. There is no need for this to go back and be reworked and reworked. I think the committee did a wonderful job under the leadership of Senator Cleveland. We looked at all the issues and came up with two or three different reports. Eleven out of the thirteen people in this committee said we need to have creation of how you go about petitioning; what do you need, how do you do it, and what are the requirements to say, "We don't want this, we'd like to go back." They are right beside other communities that have all of those rights. You cross the line into this U.T. and we took those rights away from them. Not to be done by a Legislature that has a heart. I'd urge you to vote against this motion and go on to look at the bill and say, "Yes, if you live in a U.T. you have the same rights that I do living in Brewer, that you do living in Portland, that you do living in Waterville, or wherever it may be." That's all it asks for. It's very simple. I would urge us to vote against the pending motion. 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, it seems to me one of the founding principles of this country is equal protection under the law. We treat everyone equally, no matter what their station in life is, no matter all kinds of different things. All this bill does is asks for people to be treated equally and we're going to ignore it. This is a good piece of legislation that allows some people to have the same rights that others do, that allows one industry to be treated the same as another industry. How is it that if you want to sell a house lot and you own 1,000 acres you have to have hearings hundreds of miles away but if you have this politically correct, or whatever it is, politically powerful, industry you get some kind of special treatment under the law? I can't vote for this. I hope that we don't commit this back. I couldn't look at myself in the mirror tomorrow if I voted for this. Thank you.

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

Senator **CLEVELAND:** Thank you Mr. President. Men and women of the Senate, I'd like to speak to three items this afternoon. I'd like to tell you a little bit about what the bill does. I'd like to tell you something about what our process was in the committee when we undertook hearing this bill. I want to explain to you, and it is related to this motion, why I am on the Ought Not to Pass Report.

Very quickly, what this bill does, and incidentally when the bill originally came to us it was a pretty simple and straight forward bill, is simply ask that five unorganized territories, Carrying Place Township, Concord Township, Highland Plantation, Lexington Township, and Pleasant Ridge Plantation, be removed from the expedited area. That was the bill. During the course of the process it became clear to many of the members of the community that if we followed the request of this bill that it would become a process of simply the next round of communities who would like to be out of the process and be removed and we would

be dealing with this issue on a piecemeal basis, one group of unorganized territories by the next. The committee worked the bill to create a process, which is the Committee Amendment, that does the following things: if these five named towns submit the required number of signatures on a petition they will immediately become a moratorium and no further wind processors can take place until further application is sent to the Land Use Planning Commission so that they can review the process and establish a process for communities in an unorganized area who wish to be removed from the expedited wind area. What the bill now does is provide, in addition to a moratorium process on these five towns, a process, without really much guidance, that directs the Land Use Planning Commission to come up with rules and procedures that would allow communities in the unorganized areas to remove themselves from the expedited area. In fact, the Land Use Planning Commission anticipates that the demand would be so high that in the fiscal note they have asked for two additional part-time positions simply to cover the petitioning and application process that they expect will occur. This provides a two year window by which any of those communities could gather the signatures and submit them. Once those are submitted no additional applications for any wind processors could be accepted until the process was continued.

Clearly one of the things this would do is create an at least two year period of a fair amount of uncertainty about exactly what the policy was in those particular areas until all of the petitions were submitted and reviewed and processed with the Land Use Planning Commission. That creates a great deal of uncertainty and a great deal of apprehension about exactly what our policy is in the state of Maine.

In the committee process we allowed, as the good Senator from Penobscot said, all the time that the citizens needed to present their case. One of the most fundamental aspects of democracy, to its core, is that we allow the citizens to be heard and we allow them an adequate time to present their case and their grievances. The committee worked late into the evening to make sure that, that day they were there, we could hear them all. They are good citizens. They are good people. They presented passionate testimony about wanting the opportunity to make their own decisions and be able to have a process by which they could remove themselves from the expedited area. They are extremely admirable people. I had a great affection for them. In fact, of all the bills that I have done this year this is a bill that caused me the most personal difficulty because it forced me to make a difficult decision that I wish I had not been put in that position to make. One was that I have empathy for each and every one of those people who testified before us. I understand why they were there. They made a great case. From their personal perspective, they are legitimate in asking for this relief before this Body. I also find myself torn because as an elected State Senator I have another responsibility that I have to live up to as well. That responsibility is to determine what appropriate policies are for the state of Maine in this area of energy.

I wasn't here when the Wind Energy Act was passed. I didn't vote for it. I had no participation in it whatsoever. I carry no water for the bill, the Energy Act, one way or the other. What I do know is it's state policy. What I do know is that that policy tries to look at a balance between individual rights and needs and the policy for the State of Maine in regards to energy production. We all know that there is virtually no source of energy production that doesn't have some impact on people, on the environment, or on neighborhoods. Nuclear power plants, coal plants, oil plants, and

hydroelectric facilities, they all have an impact. Wind power has an impact as well. The challenge before us is how to put together a comprehensive policy that balances all of those needs and recognizes not only the immediate needs but in the long term what is our policy for this state in regards to having sources of energy that are clean, affordable, renewable, and meets the needs of homes and businesses in this state. Wind power will be part of that in some way.

I am absolutely convinced that it is imperative that we look at this wind act policy from a neutral perspective and find the right balances and look to the grievances that have been brought before us, but do so in a way that we recognize what the consequences might be in any changes that we make. That's not easy work and I wish we would have had both the time and the resources to do it this year, but we are a part-time citizen Legislature. We don't have the resources to do everything we can or would like to do. We had many many bills before us. As many of you know, we spent a great deal of time on an immediate and critical issue of our energy policy that was incorporated into the omnibus bill that took five months' worth of work. Unfortunately, that didn't leave us as much time as I would have liked to do the kind of comprehensive work that I think this committee should and can do in the same fair, even, bi-partisan way that we've done our other work.

From a personal point of view, if I took only into consideration the views of the testimony of the people who came before me, I would vote for this immediately, but I have to share the responsibility that all the people in this state put onto me and gave to me to look at the issue in its larger form and to make sometimes more difficult decisions on how it effects all of the people in Maine and what the outcomes would be. I'm committed, and I hope my good Senator from Penobscot, Senator Youngblood, would be as well, to give all of these issues regarding wind energy a thorough review when we return in January and take as much time as it takes to do it. That's why I do support the committing of the bill so we can do it in that comprehensive way. I do so with a heavy heart because I know, listening to the testimony, what it means to those good honest citizens in our state who did such a wonderful job advocating for their point of view. That's why I'll be voting for commitment and I hope when you consider what your overall responsibilities are you will take all of that into consideration.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't have the in-depth knowledge of this subject that the two previous speakers have. I wish that I did. I think that I understand it well enough to have a strong position on this. I understand very clearly that there is more than one responsibility for me when I come down here to represent people. Certainly coming up with the best policy is one of those responsibilities. The other responsibility that I have is making sure that I do everything in my power to do the will of the people. This is a moral issue to me. This is an issue about fairness. I have heard from dozens of people who are very happy and very reassured with the vast majority of this committee after having vetted it, wanting it to pass in the form that it came out of committee, the majority. I've only heard from one, only one out of the dozens of others who support it, that asked me to go a different way and that person, a person I respect greatly, happens

to be an official for the county. Our county, quite frankly, is gaining a lot of money out of wind power in U.T., in unorganized territories. I certainly am strongly committed to supporting the will of the people. I cannot support the present motion. I will vote against that and hope that we will go to the Majority because I think that is the right policy to follow. Thank you, Mr. President.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll make this very short and sweet. I'd like to reiterate a very important point in this bill. Every member of the House and Senate lives in an expedited permitting area and we have the right to influence whether or not wind power is developed in our communities. How can we tell those rural Mainers in the U.T. areas that they don't deserve the same rights that we all have? The committee has done their work. I see this as a stall tactic. I see no need to go back to committee. Let's vote on this bill. Thank you.

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

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, thank you for the opportunity to speak very briefly again. I don't have enough good things to say about Senator Cleveland, the way that he ran the committee. I sat on five different committees in this organization. I've never seen a committee run any better than the Chairs did this past year. Very very knowledgeable. Very very fair. I, too, am interested in all the people in the state of Maine, but all of the people in the state of Maine do not have the same rights. When this was put together the residents and property owners of those communities that are in the expedited area were never notified that this was going on, never allowed to participate, and, because of this, they still cannot participate. They cannot request a hearing to discuss what's going on in their community. They can participate in other issues. They have all the same rights that you and I do. They cannot participate in wind discussions in their communities. That's just not fair. This bill does not let those five communities that came to us with all the people and all the testimony and all the petitions out of the expedited area. All the bill does is say to one of our organizations that works out there for us, taking care of all of these U.T. and stuff, that they must create a series of things that one can do to petition them to be removed from an expedited area. It doesn't say they'll be successful, but it allows them, it gives them the basic right, to say, "We, as a group, would like out. What do we have to do?" It's unbelievable that we would pass legislation putting people in any community in the state of Maine in a position where they were not notified what was going on and took away their rights, unbeknownst to them, that allowed them a basic right that every single person in this room has. It's just not fair. It's very simple. I hope that you will vote with your red button on this motion. Thank you.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to get up and respond a little bit to some of the comments. I don't believe this is a stall

tactic. I believe that the committee definitely can take a look at this more over the summer and then, in the next session, can come up with a better process than what we have now. I don't think it's going to get any easier to wait until next session, but I do think that a lot of people have concerns with what we have here and trying to come up with a better compromise than what we are doing here today. I have great concerns with what this might actually do for other industries. Once you open this door, saying that people can petition, how is that going to affect possibly logging set-backs in Unorganized Territories? People are going to draw conclusions that if you can get out of expedited wind than you should be able to get out of having set-backs for camps in Unorganized Territories. I know that that is going to happen because I hear people complain about those issues all the time. I would say that the number one way if people want to make sure that they have control of their area, that they are the ones making the decisions, and I tell this to a lot of people in my area, is for them to organize. Organize the plantations like the plantations Allagash has, organize the town and then they have control and they can set the ordinances themselves. I have some places in my district that only have 50 people in their organized plantation. That certainly gives them the right to do whatever they want to do in their area. That's something that no one, LURC or any other organization, can stop people in an area from doing. That gives them the ultimate control and they certainly can do that. I don't feel we've taken away their rights at all. I think that they have the ultimate right of becoming organized and making the decisions themselves. I have definite concerns, as the people that are in that area have concerns, the Unorganized Territories in my area, for other things. I'm not 100% committed to what the Majority Report says, but I do think that we have an issue here that the Senator from Androscoggin, Senator Cleveland, eloquently described and that the committee needs to go back and try to come up with something else. I see both sides of this. They certainly might be able to get out of expediting wind, but people that are in areas of Unorganized Territories that don't like logging or something else could also come along and say, "Well, we don't want that either." That would give me great concern, too. Many instances I see this working for people. I see it, at least in my personal opinion, hurting in other ways. I'm certainly interested in having the committee look at it again and up until then if people feel that they don't have any rights I would say the simplest and easiest thing and the ultimate thing would be for them to organize.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Goodall to Commit the Bill and accompanying papers to the Committee on Energy, Utilities and Technology, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#322)**

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **COMMIT** the Bill and accompanying papers to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

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The Chair laid before the Senate the following Tabled and Later Assigned (6/18/13) matter:

An Act To Amend the Health Plan Improvement Law Regarding Prescription Drug Step Therapy and Prior Authorization  
S.P. 329 L.D. 984  
(C "A" S-123)

Tabled - June 18, 2013, by Senator **JACKSON** of Aroostook

Pending - **CONSIDERATION**

(In House, June 5, 2013, **PASSED TO BE ENACTED**.)

(In Senate, June 6, 2013, **PASSED TO BE ENACTED**, in concurrence.)

(In Senate, June 18, 2013, Veto Communication (S.C. 487) **READ** and **PLACED ON FILE**.)

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

**Senator GRATWICK:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I wish to stand in favor of further consideration of L.D. 984, an act regarding prescription drug step therapy and prior authorization. Just in brief, there are two ideas in this particular bill, which we dealt with in detail in the Insurance and Financial Services Committee; the first being step therapy. This is a very rational normal thing that I think is done, which is to say that when you go to see your doctor, hopefully, the doctor will start you off with the most specific and least expensive medicine possible. That is if you have bronchitis you might well start with penicillin before you go to other much more broad spectrum antibiotics. That's just common sense. That's good medicine. The second is that the requirement for preauthorization. This also is rational. This has to do with the fact that insurance companies, any payer, would like you to start off with the least expensive medicine, for example penicillin, before going to a more expensive medication. This was passed by our committee and it's also been passed by both the House

and the Senate. It then went to the Chief Executive and was vetoed. The part that was objected to, apparently, is the second, that is this preauthorization. Currently, private insurance companies are required to rule on whether they are going to pay for this medicine, another medicine, higher up the step therapy. They are required, within 48 hours, to make that ruling. It turns out there are two major insurance companies in Maine that already do 24 hours; one being MaineCare or Medicaid and the second being the federal program, Medicare. Both of those will give you answer within 24 hours. On the other hand, private insurers such as Anthem or Aetna, they take 48 hours. It was written in the letter of June 18<sup>th</sup>, "Maine law requires insurers to turn prior authorization requests around in two business days. This bill would shorten that window to 24 hours, requiring insurance companies to provide medical and clerical staff in the office every weekend for these prior authorization requests, and will drive up costs." In other words, this bill is not in favor of patients who are presumably getting the medicine for a good reason, but rather for the benefit of the insurance companies. I would say, simply, that the insurance companies have algorithms that deal with this very easily. At the press of a computer button they get back computer print-outs of this that require virtually no human interaction whatsoever.

Two very specific examples, just as I was thinking about talking about this, one of the staff members here, in fact sitting in this room right now, has a significant disease, had seen a number of oncologists, questioned from the Dana Farber, in Boston, questioned as to whether she should be on medicine, chemotherapy X, Y, or Z. Finally a decision was made by her team and then a physician on a late Friday afternoon that medicine X was appropriate. She went to the pharmacy and the pharmacy said, "I'm sorry. You really can't have this until Tuesday afternoon, two business days, because your pharmacy requires that preauthorization time." This was intolerable. Obviously, this is someone with a significant medical condition. The doctor wanted her to have it right away. The pharmacist, apparently, made that decision then and there to advance her the four pills necessary to keep going. The pharmacist was putting himself or herself out on the line, but trying to take care of patients. That's entirely appropriate. I think the pharmacist gets kudos and the insurance company does not rank quite so high, in my estimation. The second is that I saw someone three weeks ago for an arthritis condition. Hadn't done well on very common medicines. Needed a more expensive medicine, a medicine that had been around, it's now a very commonly used medicine for arthritis. It has been around for the last 14 years. It took ten days in this particular instance for Aetna to make up its mind that this was, indeed, an appropriate medication. In other words, the decision here has been made by insurance companies that they will be denying rapid treatment where it's appropriate. I think it's highly appropriate.

I can think of no instance in which the veto should be better overturned than in this particular instance. This veto puts the convenience of insurance companies, pressing computer buttons on weekends, over the needs of patients. It seems to me we've all been elected and we are here to serve the patients, the people, our fellow citizens of Maine. We're not here to serve the benefits of insurance companies. As I think you are well aware, Anthem is a multi-billion, not million but billion, dollar organization. Most assuredly they are here to serve our needs, so I would ask you to follow my light. I think this veto should be overturned. Thank you, Mr. President.

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

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today to vote to sustain this veto. Maine law requires insurers to turn prior authorization requests around in 48 hours. This bill shortens that window to 24 hours. Requiring insurance companies to retain medical and clerical staff every weekend for those prior authorization requests will drive up the costs for consumers. This requirement applies only to non-emergency situations. Healthcare costs have been rising an average of 16% a year for the last six years. We don't need to add more cost. Thank you, Mr. President.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#323)

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, 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, and 20 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Buy American-made Products"  
S.P. 311 L.D. 890  
(C "A" S-303)

In Senate, June 18, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303) AS AMENDED BY HOUSE AMENDMENT "A" (H-557)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **GOODALL** of Sagadahoc, the Senate **RECEDED** and **CONCURRED**.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Change the Voting Requirements for the Withdrawal of a Municipality from a Regional School Unit" (EMERGENCY)

H.P. 534 L.D. 783

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-552)**.

Signed:

Senators:

MILLETT of Cumberland  
LANGLEY of Hancock

Representatives:

MacDONALD of Boothbay  
DAUGHTRY of Brunswick  
HUBBELL of Bar Harbor  
KORNFIELD of Bangor  
MAKER of Calais  
McCLELLAN of Raymond  
NELSON of Falmouth  
POULIOT of Augusta  
RANKIN of Hiram

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

Signed:

Senator:

JOHNSON of Lincoln

(Representative SOCTOMAH of the Passamaquoddy Tribe - 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-552) AS AMENDED BY HOUSE AMENDMENT "A" (H-561)** thereto.

Reports **READ**.

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

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I rise to speak in opposition to the pending motion. We've got a number of towns going through this process, in my own school district as a matter of fact. The history of this is that originally the withdrawal, the requirement, was a two-thirds vote of the community in order to withdraw. I was persuaded to join, in the last Legislature, to changing that to 50% of the voters that turned out in the most recent Gubernatorial election. What this would do is lower that to half the people that show up to vote the matter of whether to withdraw or not. That's a very low bar to be undoing an agreement which a lot of work goes into. A lot of work goes into communities being part of school systems and trying to make those school systems work, trying to make them better, and working to build a larger community of teachers and students that share their experiences and help each other succeed. I don't think it's advisable that we treat this so lightly. We want to undo school systems that have joined together with merely a vote of half that bothered to show up on the day that they vote. I think that that's irresponsible and I would remind people that there have been an awful lot of elections lately, and we heard about this in front of the Education Committee on a number of bills, in which the turnout was a frighteningly small percentage of the population, particularly for issues that are not major elections. It seems to me that this a bit like a marriage. You get into a marriage by saying "I do" but getting out of one takes a little more work, and for good reason, because there's a lot of involvement, a lot of commitment, and a lot of things that depend upon what you build in that marriage together. I urge you to vote with me against the pending motion. Thank you.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I rise to support this, the Majority Report. We've worked on this a couple of sessions now and while I would agree that in most cases you would want to have a system in place that made it a little bit more cumbersome to get out, to make people really think about that, but the system to get in was just a majority. In my town a little over 200 people showed up for that vote to get

into an RSU. It seems like it would be fair to do it just the same way to get out. The circumstances were then, almost a foregone conclusion, that you were going to face penalties if you didn't vote for consolidation. The sort of stick to that was if you didn't vote you were going to be penalized, a withholding of GPA. A town that was nearby me that I represented when I served in the other Body stuck to their guns and did not. They voted not to join, not to consolidate, and, as the years have gone by, they have looked like the ones who took the better road. They said "We'll forego, we'll take the penalties from that." As it turned out, that was the better way to go. It will be interesting to note, maybe some of the irony, I think the good Senator from Lincoln will have the same position as the second floor will have on this particular bill. It will be interesting if it comes back to us, the irony in that. My district is involved in this process at this very moment. In talking to my colleagues who I taught school with for over 30 years and the kids and the parents, finding a way to sort of get out and get our system back under local control is very important. Thank you and I appreciate the support on this vote.

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

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, since the roll call has been taken care of that part of my reason to stand is taken care of. I did want to briefly mention and remind people that what we're voting on here would make it easier; it would lower the requirement for exiting. I'm not looking to increase and I'm not looking to make it harder for people, but I don't think that we should say that a small percentage of a community turning out should undermine the structure put in place by a lot of people working to make a good school system and try to make it better. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#324)

**YEAS:** Senators: BURNS, COLLINS, CUSHING, DUTREMBLE, FLOOD, HAMPER, KATZ, LANGLEY, MASON, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THOMAS, VALENTINO, WHITTEMORE, YOUNGBLOOD

**NAYS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, GERZOFISKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, THIBODEAU, TUTTLE, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-552) **READ**.

House Amendment "A" (H-561) to Committee Amendment "A" (H-552) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-552) as Amended by House Amendment "A" (H-561) thereto, **ADOPTED**, in concurrence.

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

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

#### REPORTS OF COMMITTEES

##### House

##### Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Ensure Statewide School Accountability and Improvement"

H.P. 1085 L.D. 1510

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

Signed:

Senators:

MILLETT of Cumberland  
JOHNSON of Lincoln

Representatives:

MacDONALD of Boothbay  
DAUGHTRY of Brunswick  
HUBBELL of Bar Harbor  
KORNFIELD of Bangor  
NELSON of Falmouth  
RANKIN of Hiram

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-558)**.

Signed:

Senator:

LANGLEY of Hancock

Representatives:

JOHNSON of Greenville  
MAKER of Calais  
McCLELLAN of Raymond  
POULIOT of Augusta

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

Reports **READ**.

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

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **KATZ** of Kennebec, the Senate  
**RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT**  
**NOT TO PASS** Report, in concurrence.

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

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

Senator **LANGLEY:** Thank you Mr. President. Thank you for  
your indulgence on the slow button pushing on my behalf in the  
start of this. I rise to oppose this motion and to discuss a little bit  
about the intent of this bill, which is to strengthen what is currently  
in law of what happens when a school fails the school approval  
process. There is quite a bit in statute that dictates what a school  
has to do to maintain its approval process. When the case  
happens that it doesn't, this particular piece of legislation has  
been amended to strengthen that. A lot of what will be pointed  
out in opposition to this is that it seems to draw attention, or  
focus, that makes it sound like the department is going in and  
taking over a school system, which couldn't be farther from the  
truth. What it does do is say that the school system develops its  
improvement plan and, in this particular legislation, the DOE must  
send in an assistance team. It really strengthens and makes the  
commitment for the Department of Education to go in and help. It  
also puts in some strategies, a list, that could be included, but are  
not limited to, and that is the review of leadership, the review of  
effective teaching, and the ability for a school system to redesign  
their day for additional time for teachers to work collaboratively.  
This just strengthens the current law, makes it a little bit of a  
stronger partnership between the Department of Education and  
the school that might need assistance. Thank you very much.

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

Senator **MILLETT:** Thank you Mr. President. Members of the  
Senate, I rise in opposition to L.D. 1510. I do not feel it is

necessary to speak at length about this legislation, but will just  
say this bill increases the oversight that Department of Education  
over schools in relation to individual school improvement  
planning. If the department were to find that a school  
administrative unit had lost "basic school approval" that SAU  
would then be responsible for carrying the cost of sending any,  
and possibly all, students to different schools. Nothing seems  
more counterintuitive than forcing a school that is struggling to  
meet specific school requirements to pay for students to attend a  
different school. Our schools are already challenged financially,  
and losing more funds would surely create another barrier to  
success and improvement. No one will argue that accountability  
is important, but this is not the way to strengthen our schools. In  
fact, it is all but certain that this would hurt them and the  
education of our students. For that reason, I ask you to follow my  
light. Thank you, Mr. President.

On motion by Senator **JACKSON** of Aroostook, **TABLED** until  
Later in Today's Session, pending the motion by Senator  
**MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT NOT**  
**TO PASS** Report, in concurrence. (Roll Call Ordered)

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

## REPORTS OF COMMITTEES

### House

#### Divided Report

Nine members of the Committee on **LABOR, COMMERCE,**  
**RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act  
To Restore Uniformity to the Maine Uniform Building and Energy  
Code"

H.P. 691 L.D. 977

Reported in Report "A" that the same **Ought to Pass as**  
**Amended by Committee Amendment "A" (H-555).**

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

Three members of the same Committee on the same subject  
reported in Report "B" that the same **Ought to Pass as**  
**Amended by Committee Amendment "B" (H-556).**

Signed:

Senator:  
CUSHING of Penobscot

Representatives:  
DUPREY of Hampden  
VOLK of Scarborough

One member of the same Committee on the same subject reported in Report "C" that the same **Ought Not to Pass**.

Signed:

Representative:  
LOCKMAN of Amherst

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555) READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**.

Reports **READ**.

Senator **PATRICK** of Oxford moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**, 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 PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, just to give you a little background on this bill. In 2008 Maine passed a uniform statewide building and energy code in order to increase uniformity and predictability for builders, contractors, and others in order to make economic development easier and eliminate the patchwork of codes we had. It modernized and harmonized many different pieces into a single set of codes, to protect consumers across the state who deserve buildings that meet minimum standards for safety, health, and energy efficient construction; establish a common sense, practical, and highly cost effective code similar to those in 40 other states, but modified to fit our state by Maine's own building code board; reduce energy costs and our dependence on heating oil; provide significant flexibility to towns for code enforcement. Without a statewide code we're continuing to build buildings that waste heat and energy. We're hurting our business environment through a lack of consistency. We're simply stuck in the past. L.D. 977 restores UBEC to a statewide code while leaving enforcement optional in all towns under 2,000. We have state electrical codes and we have state plumbing codes for the internal components of a building, but we don't have a whole building code statewide. It was overwhelmingly supported in 2008 and this year by builders, contractors, developers, insurance companies, and others in the construction and development industry. It maintains multiple options for enforcement, including the option for no municipal enforcement, which is your third party inspectors. It lowers heating and insurance costs for new homeowners. It would return Maine to

being one of 40 states with a statewide code that encourages investment in the states and increases predictability for builders across Maine.

There are three people who did testify in opposition to it; Maine Bankers, the Maine Association of Realtors, and MMA. There was also a group that testified in favor of it; Maine Real Estate and Development Association, Maine Audubon, Associated General Contractors of Maine, Maine Contractors and Builder's Alliance, Maine Institute of Architects, Maine Indoor Quality Council, Maine Preservation, Maine Chapter of U.S. Green Building Council, Kolbert Building, P.D.T. Architects, Solaris Energy, Maine Building Official Inspector's Association, Alpha One, M Company Engineering Plus, and Grow Smart Maine.

This bill was very contentious years ago, but the thing that I do know is things have gotten better and I think those municipalities that have the building codes actually like them now. It was really neat because one of the Representatives on the committee was deathly against this until he went home and talked to his communities. He came back and the next thing we know he was onboard. He talked to his people and says it's working good. Before I jumped onto the side of expanding this I actually went and talked to my building code officer. He said it was a great thing. There are those that may disagree, but, as a representative of the citizens of the state of Maine, I got many calls. All my calls were from either small communities under 2,000 or unorganized territories. I, myself, personally, wish this covered everyone, but to get the bill passed the committee looked at going back to the 2,000 level. In the 2,000 level, the 2,000 to 4,000 citizen communities covers 50% of the state of Maine. To me, that's a big deal. That almost brings us into full coverage, as far as UBEC. That's a good thing, I believe, for the state of Maine.

I think we had great testimony on it. Some of the things that those that didn't want it, of course MMA is not going to want it if there is a possibility that it may cost them money, but we do have third party inspectors. There are 174 of them in the state of Maine. Some counties don't have quite as many, but there are 174 third party inspectors in the state of Maine. We asked for that information and we got it. I actually believe last year I supported going from 3,000 to 4,000. As someone who really didn't do much research into the issue, someone asked me, "Why did you change your mind?" I said, "Well, you know that it was a big difference between what I didn't know and doing some research and how it is working." I think it is good. I think everyone should have the opportunity to have their house done. Eighty-five percent of the houses that were checked out, that were two or three years old, did not meet the energy code; the building and energy codes. How is that going to help us lower our dependency on energy? Some of the testimony was saying that this is going to add a tremendous amount of money to the situation. In reality what we did find out was it may add \$500 or \$1,000 to the cost of building a house, but if it's an energy efficient house, at \$4 a gallon on home heating oil, the turnaround and the savings are going to be in just a few years. That's going to be for a lifetime because your house is done right. I looked at that and some of the other things, knowing that we do have electrical codes and plumbing codes and other codes that we have to adhere to. I said, "This is a good thing for the citizens of the state of Maine." I would urge you to support the Ought to Pass Amendment. 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 rise today in opposition to the report. I want to share with you a little bit of why I oppose this, because I am a realtor. I am a home builder. I am also someone who believes that there is great value in having a uniform and consistent building code that our enforcement officers can look to, be trained to, and can have as a consistent code for this state. I concur with my good friend from Oxford that we had many positive comments that were made about this. I think that there has been great value in bringing consistency to this process, but it is not a process that was as well thought out as possible. One of the concerns I bring to it is the reality of implementation. When we start to create policies of this nature, and we inflict some of those before they are fully cured on the marketplace, those who provide services have to take a conservative viewpoint. In the case of real estate, you may not have a code enforcement officer in a community that you might represent of under 2,000, but the codes that are required in this are going to be taken into consideration by the financing authority when they determine whether or not the property that they will be providing a loan for is going to meet the occupancy requirements. For new home builders, you put some of these folks in a tenuous situation where they may be required to do things to their property in order to get the financing that they need to be able to get into their new home. If they were to take a home that was needing some substantial renovations, let's say we looked to the foreclosure crisis that has faced this country, many small towns, unfortunately, have seen a higher proportion of foreclosures because of economic conditions. If that foreclosure has reached a state where it needs substantive renovations or repairs, let's say that it has been vandalized and copper or heating or plumbing has been removed, and you have a substantive requirement, they may fall under this code. Even though they are not above the 2,000 threshold they still would be affected and, hence, the financing impacts that we talked about could very well affect that property.

When I talk about a code there are several steps to this process. The good Senator from Oxford, who thought this through very carefully, is on the right course, but we're leaving the dock before we've got the gangplank in and we've got everyone fully loaded. I'd like to make sure that we don't inflict something that we're going to have to bring back once again before this Body and deal with. I would encourage you to think about this process and vote no on the current motion. Thank you.

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

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to pose a question through the Chair, if I may, and speak after I get an answer.

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

Senator **SAVIELLO:** Thank you Mr. President. I'd like to know, is this a mandate, a municipal mandate?

**THE PRESIDENT:** The Senator from Franklin, Senator Saviello poses a question through the Chair to anyone who may wish to

answer. The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. I actually believe this is a mandate. When I say this I also share the same sentiments that my good friend, Senator Patrick, does. I believe this is a good potential code that we should be using to help people build their houses and make them more energy efficient. In fact, I know one of the reasons, back when this was passed, is because, sadly, we had some contractors that take advantage of people and don't do things the way they are supposed to. This code would protect that. However, I felt that since I voted for this in 2008, it's not ready for prime time. We put it into place without having all the answers. For example, in the early days of this code, our plumbers tested water and pipes to see if they are alright, we had a way to do this. I think it's called static testing. You have another method using water. You couldn't use that other method that our plumbers normally used under that testing program. The insulation requirements called for R20. Anybody who's built anything, you'd probably use R19. We don't have R20 here, but that's what the code called for. Some of those modifications have been adjusted since then.

I'm going to tell you a story about the town of Wilton. Just recently we passed an ordinance that dealt with buildings that were falling down. They needed to be taken down because they were hazardous. This elderly gentleman said, "You know what, I have a shed that needs to come down." He took the shed down and he went to get his building permit and was told he had to have a third party inspector on the shed. I don't believe that shed needs to be insulated, but that is, in fact, what was required of him.

In a town of 4,000, I'm a selectman. We're too big to be small and too small to be big. This is a burden on our community. In fact, our selectmen have directed our CEO, at least for a while, not to enforce this and to simply take the third party certificate and file it away. I did ask what would happen if we didn't enforce it and have never received an answer. Now we want to move it to 2,000. Okay, we've told them we can move it to 2,000 and it's okay for a third party to come in. Well, in Franklin County I have three. Three inspectors. One can do all of the different kinds of inspections. The other towns are close by, but the individual now not only has to pay for the inspector to come, that's why there is no cost on this as far as the fiscal note is concerned, but they are also going to have to pay mileage for that individual to come. During the time the person is building the house, it may, indeed, take three or four times for him to come. I'm glad to hear that there are those that right now in my good friend, Senator Patrick's district that think it's fine with 4,000. I look forward to the phone calls he gets once it goes down to 2,000. Thank you very much, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I will get up to answer the question as to whether or not this is a mandate because I don't believe it is. The original UBEC law that came into effect is not a mandate. This is an expansion of UBEC. It's been determined by the Fiscal Office that this is not a mandate in terms of requiring a two-thirds vote preamble. It actually said it is an insignificant municipal cost. That is why we have that a

municipality can have a code officer. They can actually collaborate and have a regional code officer for many municipalities and third party inspectors. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, a rose by any other name should still smell as sweet. In the case of a mandate, we may not actually be calling it a mandate because the application in the prior state did not require the enforcement, but what we're doing here, if you reflect on my previous comments, is de facto. We are imposing difficulties on homeowners and people who need to finance. I think the issue here is not whether or not there's validity in the code, but how are we going to apply that. With what pressure are we going to cause our municipalities to take on measures that they are not ready or prepared to take on? Yes, there are third party inspectors. I appreciate that there has been an effort to expand that, but we're dealing with a number of issues, as my good friend from the County of Saviello just mentioned, that are not really adapting to what Maine's environment and its needs are. I think we need to wait before we do this and get it right and not continue to bother further Bodies and further Legislatures with the need to come back and correct this. Again, I urge you to consider that in your vote. 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 rise in opposition of this pending motion. I am a master licensed electrician. When this code, the UBEC code, the energy efficiency code, went into effect I had my own complications with the code, and it was in a municipal office that had two electrical inspectors. I went into the office and I asked them what the new code required. He pulled out his book and he said, "This code requires you've got to have insulated boxes. Your bathroom fans have to shut off after 10 or 15 minutes after you leave the room. They've got to keep running for those 10 minutes and then they need to shut off." We went through all the installations, all the extra expense. The person that came to inspect on the final inspection was not the original person who gave me the permit. He came in and said, "Why did you use all these boxes? Why did you use this fan and this new contraption?" I said, "Well, that's what your office required. I came and asked." He said, "We're not making the electricians do that." I said, "You'd better talk to your number one inspector because he told me I had to do it." This added all these extra costs for the homeowner that I had no control over. I went to another municipality to wire their house and I asked them, "What do you require?" He said, "We're not following the Energy Efficiency Code because I can't tell you when you're done wiring if the air seepage is coming in from your boxes or if it's coming in from the doors and windows. To perform an accurate test, it would take me, with a machine, two to three hours to perform this test. Therefore, we're not investing the time or the money to do these tests." I feel this is just a continuation of mandates, or non-mandates, that people will follow that are not useful at this point until more work is done on the code. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I will say the system is not perfect, for sure. I will tell you I have gotten calls.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Cushing, and asks for what purpose the Senator rises.

Senator **CUSHING:** Thank you Mr. President. How many times is a member permitted to speak without additional permission, Mr. President?

**THE PRESIDENT:** The Chair would respond that under Senate Rule 401, if the Senator is the mover of the matter under debate than the Senator may speak three times without leave. The Chair would ask the Senator from Oxford, Senator Patrick, to continue.

Senator **PATRICK:** Thank you very much Mr. President. I want to thank the good Senator from Penobscot for making sure I stay adhered to the rules, because I remember a year or two ago when I had problems. I want to thank him for that. It is a rose and it does smell like a beautiful flower. I will make agreement to that.

Mr. President, I will say when you get many calls that someone is spending thousands of dollars, on a roof or fixing up an addition or anything, a little old lady or little old gentleman who happens to say, "Look, I've got to get a lawyer now because the person did my project, or didn't do my project, or dropped off the material, took my money," I think there's a problem with that. You can have the best codes in the world, you can have the best craftsmen in the world, but there are going to be problems. This is an avenue where we're looking towards the future where we can have codes that are going to reduce energy. Maine is the highest user of fossil fuel in the country. If there are avenues that, when we're building a new house, that there are codes, are going to make sure that that home is energy efficient. I know mine was built in 1957 and I'm not sure if they had any codes back then or not, but I know how much it costs me for oil. I did have a job up until Monday and then I'm laid off for a week, after 33 years. That's another story that I'll get into later on. At least I have a job to go back to. There are an awful lot of senior citizens in this state, people with fewer means, that they can't afford to go on and have their homes and renovations done in a manner that is going to cost more money. It's going to cost a little bit more in different times to do things. This bill is actually another avenue that, down the road, we're looking to make sure that you have people that are qualified to do the work. That's part of the problem in the state of Maine, there are those that, you can't call them fly-by-night, are people that are trying to make a living but they may not have the skills or the understanding or might not even know what a code is. We've got to do things for the citizens of the state of Maine that's going to actually be value added. To me, this is a simple thing that's going to bring us towards the future and make things better for the citizens of the state of Maine, especially if you're going to build a new home or have a big renovation. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Accept

Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-555), in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#325)**

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

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

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **PATRICK** of Oxford to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**, in concurrence, **FAILED**.

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

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

**ENACTORS**

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

**Emergency Measure**

An Act To Amend the Laws Governing Secession from a Municipality

H.P. 1131 L.D. 1561  
(C "A" H-539)

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 Resolve**

Resolve, To Review the Impact of Unfunded Education Mandates and Evaluate the Efficacy of Education Laws

S.P. 322 L.D. 944  
(C "A" S-295)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with 1 Senator having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Chapter 180: Performance Evaluation and Professional Growth Systems, a Late-filed Major Substantive Rule of the Department of Education

H.P. 1109 L.D. 1542  
(H "A" H-546 to C "A" H-507)

Comes From the House, **FAILED FINAL PASSAGE**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#326)**

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

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

This being an Emergency Measure and having received the affirmative vote of 22 Members of the Senate, with 13 Senators having voted in the negative, and 22 being less than two-thirds of the entire elected Membership of the Senate, **FAILED FINAL PASSAGE**, in concurrence.

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

**ENACTORS**

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

**Acts**

An Act To Expand Wild Turkey Hunting Opportunities  
H.P. 161 L.D. 200  
(H "A" H-547 to C "A" H-542)

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

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An Act To Provide for Special Restrictions on Dissemination and Use of Criminal History Record Information for Class E Crimes Committed by an Adult under 21 Years of Age  
H.P. 368 L.D. 549  
(C "A" H-544)

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

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An Act To Expand Access to Early Postsecondary Education  
H.P. 677 L.D. 963  
(C "A" H-545)

On motion by Senator **GOODALL** of Sagadahoc, placed on the **SPECIAL STUDY TABLE**, pending **ENACTMENT**, in concurrence.

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An Act To Promote Innovation in Public Schools  
S.P. 390 L.D. 1129  
(H "A" H-548 to C "A" S-291)

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

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

**ENACTORS**

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

**Emergency Measure**

An Act To Establish the Maine Online Learning Collaborative  
S.P. 580 L.D. 1533  
(C "A" S-302)

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

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**Emergency Measure**

An Act To Fix and Improve the System Used To Evaluate or Rate Public Schools in Maine

S.P. 585 L.D. 1540  
(C "A" S-306)

Comes From the House, **FAILED ENACTMENT**.

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

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**Acts**

An Act To Amend the Law Governing Provider Contracts with Insurance Companies

S.P. 540 L.D. 1466  
(C "A" S-284)

**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.

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An Act To Make Post-conviction Possession of Animals a Criminal Offense

S.P. 252 L.D. 703  
(C "A" S-283)

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

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An Act To Promote the Maine Economy and Support Maine's Sporting Camp Tradition

S.P. 276 L.D. 738  
(C "A" S-305)

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

An Act To Amend the Prior Authorization Process for Methadone and Suboxone Treatments under MaineCare

H.P. 664 L.D. 951  
(C "A" H-559)

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

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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

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

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

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On motion by Senator **GOODALL** of Sagadahoc, **RECESSED** until 5:00 in the afternoon.

After Recess

Senate called to order by the President.

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

#### ENACTORS

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

#### Acts

An Act To Regulate Dealers in Secondhand Precious Metals  
H.P. 64 L.D. 71  
(H "A" H-551 to C "A" H-392)

An Act Regarding School Construction  
S.P. 429 L.D. 1235  
(S "A" S-312 to C "A" S-239)

**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.

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An Act To Promote the Safe Use and Sale of Firearms  
H.P. 874 L.D. 1240  
(C "A" H-450)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#327)

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

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

18 Senators having voted in the affirmative and 17 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.

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

#### REPORTS OF COMMITTEES

##### Senate

##### Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Ensure Accountability in State Contracts"

S.P. 406 L.D. 1169

Had the same under consideration, and asked leave to report:

That they were **Unable To Agree**

On the Part of the Senate:

Senator LACHOWICZ of Kennebec  
Senator GERZOFSKY of Cumberland  
Senator JACKSON of Aroostook

On the Part of the House:

Representative LIBBY of Lewiston  
Representative MacDONALD of Old Orchard Beach  
Representative VOLK of Scarborough

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

Sent down for concurrence.

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

**ENACTORS**

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

**Bond Issue**

An Act To Authorize a General Fund Bond Issue To Establish the High-efficiency Biomass Boiler Rebate Program and the Home Heating Conversion Fund

S.P. 542 L.D. 1468  
(S "A" S-301)

Comes from the House with Bill and all accompanying papers **COMMITTED** to the Committee on **APPROPRIATIONS** and **FINANCIAL AFFAIRS**.

On motion by Senator **HILL** of York, Bill and accompanying papers **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

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**Act**

An Act To Further Strengthen the Protection of Pregnant Women and Children from Toxic Chemicals

S.P. 418 L.D. 1181  
(C "A" S-310)

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 219

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

June 19, 2013

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

Dear Secretary Grant:

House Paper 462, Legislative Document 670, "Resolve, To Encourage the Use of Career Interest and Aptitude Tests in Higher Education," 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 Bill become a law notwithstanding the objections of the Governor?"

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

House Paper 809, Legislative Document 1144, "An Act To Further Ensure Effective Teaching and School Leadership," 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 Bill become a law notwithstanding the objections of the Governor?"

86 voted in favor and 57 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ** and **ORDERED PLACED ON FILE**.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Authorize Options for Local Revenue Enhancement"  
H.P. 299 L.D. 427

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

Signed:

Senators:

HASKELL of Cumberland  
MILLETT of Cumberland  
THOMAS of Somerset

Representatives:

GOODE of Bangor  
BENNETT of Kennebunk  
BROOKS of Winterport  
JACKSON of Oxford  
KNIGHT of Livermore Falls  
STANLEY of Medway  
TIPPING-SPITZ of Orono

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-363)**.

Signed:

Representatives:

LIBBY of Lewiston  
MAREAN of Hollis  
MOONEN of Portland

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-363)**.

Reports **READ**.

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

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

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I rise today in opposition to this bill. I just wish I could talk on the bill, but I can't. Can I? I'm sorry, I'm talking out loud. I don't want to be ruled out of order. One of the things, I guess, I wanted to talk on the bill, but this was put in. For the last 25 years we've had many local option sales taxes bills that have been put in. This is one more bill that was put in. The difference on this bill, though, versus other bills is that this bill will let each citizen, by referendum vote, decide whether or not they want to tax themselves and, furthermore, earmark the money as to where it is to be spent and decide on the length of the taxable season. It is an honest bill that gives 100% of the right of the voters to say where their dollars are being spent. One of the things on the bill is that I'm a co-sponsor of it. I actually worked with the co-sponsor to help her on the bill. I have served on the

Taxation Committee previously and many times we've had bills just to have a local option sales tax. This bill is different. This bill has different elements in it. One is that it added a seasonal element to it. That way if somebody had a large influx during the summertime, or the wintertime, or the fall, that they could put on a local option sales tax for a couple of months. The good sponsor of this bill from the other Body, who represents Old Orchard Beach, is inundated in the summertime. They have about 100,000 people come down there. What it does is it really puts a burden on their municipal tax budget. They have extra police, obviously. They have extra for fire, firemen. They have extra people in the public works department. There are a lot of things that tie into it. One of the things, when we were trying to formulate the bill as presented, is that this is something that the voters would vote on. The municipal officers would not be able to do this without a vote of the citizens, therefore there would have to be a referendum and the citizens would have to vote on the bill. If at any time they didn't like the local option sales tax, all they had to do was have another vote on the bill and they would be able to repeal it. They would also have the money targeted to whatever they wanted to do. If the citizens went to the booth and said "We want to put on," for example, "1% sales tax on rooms or on meals or lodging for the two month period of time of July and August and all of the money would go to help fund the police department," than they would be able to vote on that and they would be able to do that. It would just be for a short period of time. I think with all of the reductions we've seen with the municipalities, whether it's on revenue sharing or anything else, this is just another tool in the toolbox. I was opposed to local option sales tax when I was on Taxation because I felt it would pit one community against the other community. This bill has provisions so that won't happen, really. It's not as if you're going to go out and put it on the local businesses or on cars or automobiles or anything else. This would be targeted towards a specific type of sale that you had to do that. Most of the time, I think, if this bill went through, the people who lived in the community would never ever be affected by it because what it is is trying to import money from people from out-of-state that come on a seasonal basis into a community. This is not a local option sales tax, or it could be if the town wanted to do it on a year-round basis, it could be very targeted on that. I think that this is another tool in the toolbox. It is totally home rule, I feel. It's giving the municipalities the option to decide and, more than that, it's not just giving the municipalities, when you think of the city council or the town councilors, it is also giving the citizens the right to vote on this, not only to enact it but to repeal it at any time whatsoever. They could do it for two months. If it doesn't work than they could certainly go back and have it repealed. To me, it's just another tool for our communities and they are hurting right now. I know I would want to go back and tell my municipalities that we did everything we wanted and I certainly don't think, if it's say 1% that's on, it's going to make any difference whether anybody stays in Old Orchard Beach or Saco for 1% on their room. People are not going to be looking at that. They are going to be looking at that seven miles of beach and the hotels and the rides and everything else. I think that this is totally up to the municipalities, the way the good Representative did the bill. I can't think of anything more fair than having the voters vote on it and having it seasonal. I do not think this will pit town against town at all. It's a very small amount and it's a very small step. I would hope that you would all defeat the motion on the floor so that I can talk more fully about the amendment. I also want to say that this bill has

wide, bi-partisan, legislative support on this floor already. Thank you very much.

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

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, I have a few notes here from the hearing that I'd like to share with members as they come to understand why all three of the members of this Body were on the Ought Not to Pass Report. The first part is about the decision about what you may or may not tax. I believe in the summary, in the amendment, if you look at Section 2, it says "a municipality by referendum may impose local option sales tax of no more than 1% on those items that are in the sales tax base except for those excluded in Section 3," we know what those are, those are cars and refrigerators and major household appliances. It goes on to say in that same sentence "a municipality that adopts local option sales tax pursuant to this section may not alter the range of items subject to sales taxation under this part." That seems, to me, to say that, except for the three things that are listed here in excluded items, if you are going to have this local option tax you've got to do it on everything that's taxable in that community, every sales tax. If that's not true I would stand to be corrected, but that's my plain reading of that.

Let me tell you some of the people who came in and opposed. CMP was one of the ones that came in and opposed. There is a sales tax on electricity. They said these local option taxes, particularly seasonal local option taxes, would be a nightmare to keep track of; trying to figure out which community was imposing which sales tax in which season and for what period. Does this mean heating oil? It's tough for these communities and these businesses, these larger businesses which are making distributions throughout wide areas, to determine where they are going to add a sales tax and where they are not. Other people who spoke against this; the Maine Tourism Association. As you can imagine, you would expect that. The Maine Retailer's Association. One of the questions the Maine Retailer's Association came up with, which is not clearly answered, is what happens with two communities? Freeport and Old Orchard Beach. Say Old Orchard Beach has imposed this 1% tax. What if I go to Freeport and buy something and have it mailed to Old Orchard Beach? Is there a sales tax. Is that an additional sales tax on there? What happens if I buy that same item, that same t-shirt, in Old Orchard Beach and have it shipped to Freeport? Does Old Orchard Beach get to collect that 1% tax? Those questions are unanswered here. Let me make sure I get it right. The NFIV, which I'd like to just give you a couple of the things that they said here. It says here in their testimony against the bill, out of the things you would expect like, "We don't want you to raise taxes," it goes on to say, "Residents of one municipality can effectively impose a tax on residents of other municipalities due to the location of a shopping mall, for example, that has become a substitute for downtown retailers in another municipality. This encourages businesses to locate or relocate to a neighboring municipality that doesn't have a local option tax. Think about what the implications are of where you would locate your business. This also tends to favor those communities with large shopping areas to the exclusion of the communities with the Mom and Pop, brick and mortar, stores that surround that one community who is trying to be in competition with them." In addition, the Maine State Chamber, as you would have

anticipated, also spoke against it and really talked about how local brick and mortar retailer businesses will never be able to compete in a high taxed environment like that. It makes it tough for them.

In addition, one of the issues that I've been concerned about is that the Taxation Committee has been talking about how we tax internet sales, how that happens in our state. We've passed a couple of pieces of legislation that begin us, and start us, down the path. If we are going to do that this seasonal or erratic application of a sales tax would make it very difficult to keep track of, from the Maine Revenue Services' perspective, how all of those internet businesses were going to apply that sales tax. They would have to have a city-by-city and timeline-by-timeline, if you only did it for a few months, list of what tax they are going to apply. That makes it very difficult. The smoothest and easiest harmonization, that's what they call it, of the state with a national e-fairness or internet sales would be for us to have one sales tax across the state. Local option taxes do not work well in that environment.

Lastly, I'd like to read you a couple from the Old Orchard Beach Chamber of Commerce. "This bill is extremely divisive. Pits one community against another." The author of this letter is the President and CEO of the Old Orchard Beach Chamber of Commerce, the Chair of the Maine Beaches Association, a board director at Maine Innkeepers, the Maine Tourism Association, and the owner of motels, cabins, and apartments. He goes on to say, "We work diligently in cooperation with the State Office of Tourism in marketing the Southern Maine coast region. The board of the Beaches Association, representing seven Chambers of Commerce, and my Chamber of Commerce in Old Orchard Beach agree that we've come too far in working together in promoting the region for too many years to have to start rethinking how we market our communities because of this proposal playing one community against the other. We support each other in our efforts, but compete for every tourist dollar that we can bring into our individual communities." In closing he says, "I hope that by speaking with you today and hearing the testimony of others you will come to the conclusion that the ramifications of this bill will not be in the best interest of our communities. It sends a very negative message. It creates dissension among communities who are now working tirelessly in marketing our state to outsiders and will have a negative financial impact each and every day." Thank you and I hope you will take these comments that were brought to us under consideration as you contemplate supporting the Ought Not to Pass vote in front of us. Thank you.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, let me begin by completely agreeing with the good Chair of the Taxation Committee from Cumberland. Believe it or not, I believe with her more often than most people might think. A local option tax is a tool. It's a tool to separate the people of the state of Maine from their money. The people in my district are having a hard enough time now to keep a roof over their heads and food on the table and we need them to pay more. The Senator from Cumberland is exactly right. It pits one community against another. Citizens of farming communities, when they go to get the supplies for the farm or the parts for the tractors, they typically travel to service centers. Those service



centers will have a local option tax. That takes money out of the farming community and puts it in the community's pocket that has the local option tax. People who live in manufacturing communities need to buy clothing, they need to buy supplies, and they need to buy all kinds of things. It will take money out of the pockets of those people, money that they won't have to pay taxes in their own town. The towns that collect these taxes will have the new fire trucks, the new fire stations, and everybody's going to want them. The Jones have a new car, we need one too. Then we have another competition. Most of the commerce in the state of Maine is not conducted by out-of-staters. It's not conducted by tourists. It's conducted by Maine people buying products and services from other Maine people. This is going to be another tax that hurts some of the lowest income people in the nation at a time when we can least afford it. On top of that there is the \$1.5 million it's going to cost Maine Revenue Services to implement this. That's what they've told us, \$1.4 million for a new computer program. I don't know where that money comes from, there are many, many reasons to oppose this and I hope everyone thinks carefully. There is more to this than meets the eye. Thank you.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, if you haven't believed the good Senator from Cumberland, Senator Haskell, by now I would like to stand up and also reiterate that everything that she told you, in my mind, is absolutely true. To lend just a little more credibility, I'm pretty good at marketing my own business. As you know, I own a small restaurant in Ellsworth. If this were to pass in a local community next to me, where it was to instill this, I'd be the first one to be marketing the savings that you would get if you came and ate at my place and stay in my town versus that. We look for any kind of advantage we can in the marketing world to get people to stop at your place. I know people that will drive 20 miles out of their way to save 5¢ a gallon on gas and maybe spend 7¢ a gallon getting there and back. It does become very psychological and it doesn't take much really to win that psychological game. I would support the current motion on the floor. Thank you.

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

Senator **VALENTINO:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I don't want to belabor the point. I just wanted to mention that this does have a sunset on it and it's just really a test run on it. Also for a little bit of information, for example, on these tourist towns, Old Orchard Beach sent close to \$75 million to the State last year in sales tax because they have so many people coming to the town, but yet they only received \$816,000 of that back. That's a huge disproportion. This year it will be even less than that that they are receiving. This was only a tool in the toolbox and maybe the bill should have been amended only to meals and lodging. It was never intended to do the mail order or anything else or the thousand other scenarios that people are hypothetically bringing up now. It was to help small communities that are 50 times their size in the summertime and to help them out. Certainly giving us \$75 million and only getting back \$816,000 is not fair. I'm going to be supporting it because I think that these towns need that help

and they are going to be getting even less this year. Thank you very much.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Haskell to Accept the Majority Ought Not to Pass Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#328)

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

**NAYS:** Senators: BURNS, DUTREMBLE, SAVIELLO, VALENTINO

31 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **HASKELL** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

#### REPORTS OF COMMITTEES

##### House

##### Ought to Pass As Amended

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, To Establish a Moratorium on the Transportation of Tar Sands

H.P. 970 L.D. 1362

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-428)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428) AS AMENDED BY HOUSE AMENDMENT "A" (H-543)** thereto.

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

**READ ONCE.**

Committee Amendment "A" (H-428) **READ**.

House Amendment "A" (H-543) to Committee Amendment "A" (H-428) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-428) as Amended by House Amendment "A" (H-543) thereto, **ADOPTED**, in concurrence.

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

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

**ENACTORS**

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

**Act**

An Act To Allow a Motor Vehicle Excise Tax Credit for a Vehicle No Longer in Use

S.P. 581 L.D. 1534  
(C "A" S-180)

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

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

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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

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

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

On motion by Senator **GOODALL** of Sagadahoc, **RECESSED** until 8:00 in the evening.

After Recess

Senate called to order by the President.

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

**ORDERS**

**Joint Order**

On motion by Senator **GOODALL** of Sagadahoc, the following Joint Order:

S.P. 609

Ordered, the House concurring, that when the Senate adjourn they do so until Wednesday, June 26, 2013, at 10:00 in the morning and House adjourn until 9:00 in the morning.

**READ.**

Senate at Ease.

Senate called to order by the President.

On motion by Senator **GOODALL** of Sagadahoc, the Joint Order was **PASSED**.

Sent down for concurrence.

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

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Ensure Statewide School Accountability and Improvement"  
H.P. 1085 L.D. 1510

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-558)** (5 members)

Tabled - June 19, 2013, by Senator **JACKSON** of Aroostook

Pending - motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence (Roll Call Ordered)

(In House, June 19, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 19, 2013, Reports **READ**. On motion by Senator **MILLETT** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence. On motion by Senator **KATZ** of Kennebec, **RECONSIDERED**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#329)**

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

**ENACTORS**

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

**Constitutional Amendment**

RESOLUTION, Proposing an Amendment to the Constitution of Maine Concerning Early Voting and Voting by Absentee Ballot  
H.P. 131 L.D. 156  
(C "A" H-127)

Comes From the House, **FAILED FINAL PASSAGE**.

On motion by Senator **HILL** of York, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in **NON-CONCURRENCE**.

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

**COMMUNICATIONS**

The Following Communication: H.C. 220

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

June 19, 2013

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

Dear Secretary Grant:

House Paper 463, Legislative Document 671, "An Act To Protect Charter Schools by Requiring Them To Be Operated as Nonprofit Organizations," 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 Bill become a law notwithstanding the objections of the Governor?"

97 voted in favor and 53 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ** and **ORDERED PLACED ON FILE**.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Reduce the Use of Hospital Emergency Departments for Preventable Oral Health Conditions" H.P. 1068 L.D. 1486

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-520)**.

Signed:

Senators:

CRAVEN of Androscoggin  
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland  
CASSIDY of Lubec  
DORNEY of Norridgewock  
GATTINE of Westbrook  
PRINGLE of Windham  
STUCKEY of Portland

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

Signed:

Senator:

HAMPER of Oxford

Representatives:

MALABY of Hancock  
McELWEE of Caribou  
SANDERSON of Chelsea  
SIROCKI of Scarborough

(Representative BEAR of the Houlton Band of Maliseet Indians - 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-520) AS AMENDED BY HOUSE AMENDMENT "A" (H-562)** thereto.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-520) **READ**.

House Amendment "A" (H-562) to Committee Amendment "A" (H-520) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-520) as Amended by House Amendment "A" (H-562) thereto, **ADOPTED**, in concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Further Energy Independence for the State" H.P. 651 L.D. 927

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-554)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-554)**.

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

**READ ONCE**.

Committee Amendment "A" (H-554) **READ** and **ADOPTED**, in concurrence.

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

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use"

S.P. 72 L.D. 236  
(S "A" S-285 to C "B" S-282)

In Senate, June 18, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-282) AS AMENDED BY SENATE AMENDMENT "A" (S-285)** thereto.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-282) AS AMENDED BY SENATE AMENDMENT "A" (S-285) AND HOUSE AMENDMENT "B" (H-563)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **GOODALL** of Sagadahoc, the Senate **RECEDED** and **CONCURRED**.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Require the Department of Health and Human Services To Request a Waiver To Prohibit the Use of Food Supplement Benefits for the Purchase of Taxable Food Items (EMERGENCY)

S.P. 505 L.D. 1411  
(C "A" S-308)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-308)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-309)** (5 members)

In Senate, June 19, 2013, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)**.

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-309)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-309)**, in **NON-CONCURRENCE**.

Senator **GOODALL** of Sagadahoc moved the Senate **INSIST**.

Senator **KATZ** of Kennebec moved the Senate **RECEDE** and **CONCUR**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#330)**

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

NAYS: 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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **KATZ** of Kennebec to **RECEDE** and **CONCUR**, **FAILED**.

The pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Goodall to Insist.

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 (#331)**

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc to **INSIST**, **PREVAILED**.

Sent down for concurrence.

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

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

**SENATE PAPERS**

Bill "An Act Regarding School Budgets" (EMERGENCY)  
S.P. 608 L.D. 1566

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

On motion by Senator MILLETT of Cumberland, **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent down for concurrence.

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

**COMMUNICATIONS**

The Following Communication: S.C. 490

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
OFFICE OF THE PRESIDENT**

Honorable Darek Grant Secretary of the Senate  
3 State House Station  
Augusta, ME 04333

Dear Secretary Grant:

Pursuant to my authority under Title 5 MRSA § 24001. I am pleased to appoint the following individuals to the Maine Children's Growth Council:

Karen Heck of Augusta, serving as a member with experience in public funding

Staci Beal of Gray, serving as a member who is a parent

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

Sincerely,

S/Justin L. Alfond  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

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Senate at Ease.

Senate called to order by the President.

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

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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On motion by Senator HILL of York, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

**Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor (EMERGENCY)

H.P. 893 L.D. 1259  
(C "A" H-257)

Tabled - June 10, 2013, by Senator HILL of York

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257) AND SENATE AMENDMENT "A" (S-246), in NON-CONCURRENCE**

(In Senate, June 3, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence.)

(In House, June 6, 2013, **FAILED FINAL PASSAGE.**)

(In Senate, June 10, 2013, on motion by Senator JACKSON of Aroostook, **RULES SUSPENDED. RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence. On further motion by same Senator, Senate Amendment "A" (S-246) **READ and ADOPTED.**)

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

Senator HILL: Thank you Mr. President. Colleagues of the Senate, I just wanted to assure you that we are not doing anything inappropriate here with regard to the Special Appropriations Table and how items should be removed from it. What happened here, I guess it was a week or a week and a half ago, is that the bill was prematurely moved to the table when, in fact, it should have stayed in this Body for further work and then gone down to the House. I apologize for that. At this time I hope you will accept the fact that we do need to pull it off the table and get it back into the process. Thank you.

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

Senator **FLOOD:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I just wanted to rise to say I concur with the Senator from York, Senator Hill. I believe this was just an inadvertent movement on our part a week or so ago. Now we bring this back to the Chamber for whatever actions the Chamber decides to do with this bill. Thank you very much.

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Senator **GOODALL** of Sagadahoc moved the Senate extend past 9:00 p.m., pursuant to Senate Rule 514.

The Chair ordered a Division. 27 Senators having voted in the affirmative and 4 Senators having voted in the negative, the motion by Senator **GOODALL** of Sagadahoc moved to extend past 9:00 p.m., pursuant to Senate Rule 514, **PREVAILED**.

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On motion by Senator **HILL** of York, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257) AS AMENDED BY SENATE AMENDMENT "A" (S-246)** thereto, in **NON-CONCURRENCE**

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

## REPORTS OF COMMITTEES

### House

#### Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Improve Access to Oral Health Care"

H.P. 870 L.D. 1230

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-531)**.

Signed:

Senator:

PATRICK of Oxford

Representatives:

HERBIG of Belfast

CAMPBELL of Newfield

GILBERT of Jay

HAMANN of South Portland

MASON of Topsham

MASTRACCIO of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-532)**.

Signed:

Senators:

CLEVELAND of Androscoggin

CUSHING of Penobscot

Representatives:

DUPREY of Hampden

LOCKMAN of Amherst

VOLK of Scarborough

WINCHENBACH of Waldoboro

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-531)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-531) AS AMENDED BY HOUSE AMENDMENT "A" (H-564)** thereto.

Reports **READ**.

Senator **PATRICK** of Oxford moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-531)** Report, in concurrence.

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

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I thank you for your indulgence at this late hour and I will try to be brief. This is a bill that came before our committee. I think it was probably one of the most heavily discussed bills that we had this session. I think that there was tremendous thought put into this by the committee, but we are still left with the question of whether we are making policy that is appropriate for the state of Maine. Today I must, regretfully, stand in opposition to the Majority Report. I ask for you to consider the fact that we have made policy decisions here before we had truly vetted the issue and we have, unfortunately, at times, in our efforts to do good, potentially had results that were not as effective. In this case, there has been tremendous input in the halls. We have all experienced, I think, a number of people passionately concerned about this. I respect that my colleagues here who have a strong opinion that may be different from mine. I think we need to recognize that there is an opportunity here to bring this issue forward again and deal with it appropriately, but tonight is not that time and I would ask you not to support the current report so we can move on. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, first of all

I'd like to start off thanking my Senate colleague on the Labor, Commerce, Research and Economic Development Committee for making sure that it was clear that I have made the motion and I get to speak three times. I would, first of all, like to say I like my dentist. My dentist is Milad Bozorgnia from Wilton, Maine. He's a great guy. A wonderful person. I like my former retired dentist, Gerry Cowan, who is the former Maine Dental Board Chairman. Both great people. I actually like all the dentists that I've been involved with in this whole issue. I want to say that I am proud of the fact that dentists do a lot of pro bono work. I can't remember the exact figure, I didn't go through my files, but it's in the neighborhood of \$2 million or \$3 million this last year, maybe more, I'm not sure. That just goes to show what they have done along the way.

I'm going to start out this time around with my short version. What I'd like to say is there is a lot of confusion about what L.D. 1230 does and does not do. I'm speaking today to provide clarity for those who still have questions. L.D. 1230 creates a new dental mid-level provider called a Dental Hygiene Therapist. A Dental Hygiene Therapist will be able to perform routine care like filling a cavity. The medical field has many of these types of practitioners; physician's assistants, nurse practitioners, etcetera. In fact, emergency medical technicians are not doctors, but provide critical care in ambulances at critical times. Many of these medical practitioners were controversial at first, but over time they have gained acceptance and now provide routine care in many rural and underserved areas. Dental hygiene therapists are dental hygienists who receive an additional two years of education. To become a dental hygienist in Maine it is a two to four year program. At U.N.E. it is a four year program and at U.M.A. it's a three year degree program. Once a hygienist obtains a dental hygiene therapy degree, they will have between four to six years of dental education. On top of that, they will get 1,000 hours of direct clinical training by a dentist. One of the things the committee looked at is that they had originally asked for 500 hours and we thought that was not enough and we bumped it up to 1,000. In addition, they will have to pass an exam administered by the Board of Dental Examiners. If after all their training their supervising dentist is still not comfortable with the dental hygiene therapist's performing the entire scope of practice we are discussing here today, the dentist can limit it to what they feel that particular dental hygiene therapist can do through a so-called collaborative practice agreement. Dental hygiene therapists are billed through dentists and have their own insurance. In Minnesota their insurance costs, Mr. President, are much lower than dentists. With the agreement of the supervising dentist, a dental hygiene therapist will be able to work under general supervision; that is outside of a dentist's office. As a result, they can bring care closer to patients in places like Head Starts, schools, and elderly facilities instead of making the patients always come to the provider. Mr. President, when kids don't get to a dental office it is not the kid's fault. We need to find ways to change the care delivery. Already many Maine schools have cleaning programs. With a dental hygiene therapist model, they will be able to provide more care at the same time and place. If they identify a cavity, the dental hygiene therapist will e-mail a picture of the diseased tooth to the supervising dentist. It's almost like when you have an x-ray, you send your x-ray to Australia and someone in Australia reads it. They will agree to a treatment plan. If the dentist approves, the filling can be done on the spot. That's makes missed appointments a thing of the past.

L.D. 1230 is not a bill to replace dentists. They are still the leader of the dental team and will supervise dental hygiene therapists. These providers will be required by law to spend at least half their time serving the underserved, those that have trouble getting care now. The LCRED committee further limited the scope of practice from the original proposal by eliminating the removal of adult teeth, increasing the direct supervision from the 500 to 1,000 hours, and now, with the floor amendment in the House from a Representative, making sure that at least 50% of their practice is serving MaineCare eligible patients. Mr. President, there have been a lot of questions regarding the training of these providers, so I want to say this again. A dental hygiene therapist will have a minimum of four years of education, but as much as six years, plus 1,000 hours of direct clinical practice with a dentist. When they have finished their program they will be able to perform 53 routine dental procedures. Compare this with a dentist who, after eight years of education, is able to perform more than 540 dental procedures. Dental hygiene therapists will actually have more clinical experience than a dentist with the clinical procedures that they can perform. They will be trained to the same standard of care. This legislation just makes sense, Mr. President. We are talking about providing care to kids suffering from dental pain who have no alternatives. While we have been debating this policy the number of underserved kids on MaineCare has increased from 55% to 68% in one year. Mr. President, I think our kids deserve better and I would ask all of my colleagues to vote for the Ought to Pass as Amended Report. Thank you very much.

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

**Senator BURNS:** Thank you Mr. President. Men and women of the Senate, I don't know what I'm happiest about, finally getting to this bill or the last day of session. I think you all feel the same way. Enough is enough. Why should you and I care about this bill? I'm going to do the best I can in the shortest time that I can to explain why I think we should care about this bill. Let me explain to you why I care so much about it. We all know there have been an awful lot of arm twisting going on here about this, as well as many other bills, by both sides of the issue. I guess that's normal, although some of it got me a little bit concerned as it continued. I started receiving all kinds of calls and e-mails from many of my dentists. That's unusual. Usually they don't call me, I call them. I was beginning to wonder what this is all about. Why is there so much concern here? It almost got to the point where I thought that maybe people were protesting a little bit too much. I think I have some sense as to why that protest was so loud. I want to tell you first of all that I have great respect for my dentist also, as the good Senator from Oxford just said. My long time dentist just recently retired, so I'm getting ready to break in a new dentist. Not looking forward to that. I had an opportunity to talk with my dentist just recently about this bill and I asked him his thoughts about it. Very succinctly he said, "I don't see any problem with it." The difference is that he's not in the business now. He's out of the business. That feedback meant something to me.

I have great concerns, especially for my county, Washington County, and that's why I decided to be the lead co-sponsor on this bill. My county has one of the highest underserved areas in the state. As most of you know, in Washington County over 67% of the children that live in my county are on MaineCare. I wish



that wasn't the case and we're doing everything we can, both in Washington County and as you folks are here and in the other Chamber, to try to alleviate that problem. It's going to take a long time. It takes a lot of work to try to get those folks to the point where they don't need to be on MaineCare. The fact still remains that 67% of them are on MaineCare. Eleven dentists in my entire county and 33,000 people. That's one dentist to about every 3,000 people. A large, large portion of my children are not receiving proper dental care. Now that is not necessarily the fault of the dentists. We all know that. There are many issues. In the first place, only 13% of our dentists in this state serve in rural communities. That's one reason places like Washington County only have eleven dentists. There are many reasons why people don't get proper dentistry, especially kids. Travel is a big issue. That's one of the reasons that this bill is so important, because travel in rural communities is a big issue to get services; whether it's doctor, medical services, or just going to get your groceries. Apathy is a big issue, because a lot of apathy in a lot of our rural districts. I'm sorry to say that, but it is. That's not the fault of the children. The children have to depend on somebody getting them to the appointments. The more opportunity we can provide for them the better. The waiting period is an issue. I know that in my particular federally qualified health care facility we're talking about a couple of months waiting period, unless it's an emergency. That's a big issue. Being a MaineCare patient is an issue also because MaineCare, as we all know, doesn't pay what private insurance does. It doesn't pay what private pay does. All of these issues add to the fact that children in rural communities of Maine are not getting the dental care that they need. Men and women of the Senate, that's not right. We need to do something about that. That's why we have this bill before us tonight.

This bill has been through quite a lengthy process. I heard much of it, not all of it like the good Senator from Penobscot and the good Senator from Oxford did, but I heard a lot of it. I've been involved in it throughout this process. I think that it has been very well vetted. There have been changes like every bill that we see coming before us. It's a rare occasion that any bill ends up in its final stage the way it started. I think more often than not that's a good thing, because there are improvements that are made and compromises that are arrived at, hopefully, so that we end up with a better product maybe than one or two of us started out with. I think this is the case. You've just heard the litany from the good Senator from Oxford about the requirements that would be placed on these mid-level dental therapists. Four to six years of education. Four to six years of education after they become dental hygienists. They are going to be limited to amount of procedures they can do. They are going to be under supervision. They are going to be dedicated to the people that they serve, just as our dentists are. They are going to be serving a population whose needs are unmet. Why should you care about this issue like I care about it in Washington County? Eighty-five percent of our dentists in this state do not see MaineCare patients. That's an issue. Where are they going? Well, ladies and gentlemen, a lot of them aren't being seen by dentists, as I've just said. One of the problems that we face with health care in this state is the over use of our emergency rooms. We all know that. The biggest over use of emergency rooms is that group of people between age 15 and 45 years old for dental pain. That's not the place to have your dental work done. It certainly isn't the place that I want my children and my grandchildren to have their dental work done. Mid-level dental practice can help this.

We have an opportunity here tonight. It does, frankly, fall on our shoulders tonight because the posture that it's in right now. It's in front of this Body to take care of a good portion of that problem. I guess the question has been asked over and over again; do you trust this process? Do we trust this procedure? With these credentials that are being offered here for these people to do these limited procedures, I think we're talking around 50 something procedures compared to the over 500 that a regular dentist provides. With the oversight that is going to be involved and the dedication that is going to be brought to bear that these hygienists already have or they wouldn't be in the field, the answer to that question for me is yes. I do trust them. Sure there are going to be exceptional situations that are above and beyond their training and their abilities just like there are with EMPs, as has been mentioned already, just like there are with nurse practitioners, just like there are with many professions. There is going to be a backup system. There is going to be a dentist that they are going to be responsible to. I'd much rather have a dental hygiene therapist make a decision, or encounter a situation that required more expertise than they were able to give, than I would to have that same patient go into the ER and get pain medication and go back home without any remedy. Hopefully, and most assuredly, dental hygiene therapists are going to make the appropriate referrals for that person to get the in-depth attention that they need for the problem that they are dealing with. The bill has already taken care of the issue of prescribing drugs. They are not going to be prescribing drugs. Frankly, I would not have been comfortable with that myself. As you heard, they are going to have to have 50% of their clients as MaineCare recipients, MaineCare clients. I heard the argument, "Well, we're providing sub-care." I guess you're probably going to hear that tonight, that we're providing a lower standard of care to people that are poor. I don't see it that way. I see it the other way around. What we are doing, what we are trying to do, is provide care in situations where no care has been provided. I don't consider a well-trained dental hygiene therapist to be sub-care or poor care. I consider it to be appropriate care for the level of treatment that they are going to be asked to provide. Above and beyond that need we're going to have the dentists that are going to take care of those situations. I think that argument is a red herring.

What has been done in some of the other states? You've heard, I'm sure, through the winter about the two other states and some 50 other countries that are engaged in this practice. Minnesota is one. If I may just take a moment, I want to read from a letter that I have here. It's from the Dean of the Dental School at the University of Minnesota. I quote, he says, "I'm writing to express my strong support for the effort in Maine to enact a law to improve oral dental health to its citizens." Strong support. He knows exactly what we're trying to do because it's very close to what the state of Minnesota already did, and did so successfully. The state of Alaska has done the same thing and some 50 other countries. He goes on to say in another paragraph, "Critics questioned the experimental concept of this program and that the quality of services might be inferior. I am writing to assure you that these assessments are not supported by facts, research, or our experiences here in Minnesota, Alaska, or over 50 countries where mid-level oral health practitioners are practicing today." That means a lot to me. By the way, I did meet this gentleman when he was here. Considering his credentials and considering what he does, as far as being the Dean of the Dental School, that means a lot to me. I think that's an impressive recommendation.

Fifteen out of sixteen of our counties have a shortage of dental care. That's another reason why everyone in this Chamber should be concerned. You may not see this as the right approach, but that should give you concern. We have a problem. Fifteen out of sixteen of our counties have a shortage of dental care. The other side of this issue is that has been pointed out to me, and I took some effort to check this out a couple of days ago, is that fact that these dental hygiene therapists will also be able to serve the other population that I'm extremely concerned about and have been all of my legislative career, and that's the elderly in our nursing homes. I haven't heard a lot said about that. By in large, most of our dentists don't go into nursing home facilities to take care of the elderly. You know how difficult it is, if you've had any experience at all with long term care facilities, to get our elderly patients to doctor's appointments, to dentist's offices, or even for haircuts. These therapists will be willing and able to go into the nursing home facilities, if they are invited, and work to do these same procedures with our elderly population. I sent an e-mail off to one of my nursing home administrators to ask him how receptive he would be to that. He quickly shot back an e-mail saying he thought it was a marvelous idea to have that type of service available to his residents. I see that as another plus for this proposal.

I serve on a federally qualified health care facility, FQHC, on the board of directors. There are 20 in the state, as you know. Almost every one of them, if not every one of them, support this concept because that is their job, to serve rural, underserved areas in the state of Maine. In all candor, I have a new physician at my facility and I'll be very upfront with you. She's been here for about six months. I haven't had a chance to really get to know here very well other than recently. She can and lobbied me not to support this. I want to disclose that fact to you. I hope that if we pass this, once she becomes familiar with the practice and a little bit more familiar with the practice and procedure, she will embrace it because my FQHC does. I have great faith in my CEO and my board. They support this idea and, as I said, if not every one of them than most every of the other FQHCs do support this concept. Ladies and gentlemen, we can delay this for another couple of years, but, unfortunately, there is no other plan in place. We need to do something. We need to get something moving now. To me, at least from my perspective, it's unconscionable for us not to try to meet this great need that we have here in the state. As we all know, it's not going to get any better. In the next five years, approximately 25% of our dentists are due to retire. We just went through this in a couple of our FQHCs in Washington County. I can tell you, it's extremely difficult to get another dentist to come in and replace them. We will have more dentists coming out of the dental schools. There is no doubt about it. I see this as a win-win opportunity. I see this as an opportunity to have more dentists. I also see it as an opportunity to have helpers that are qualified. From my perspective, there is no reason in the world why they can't be properly trained at that same dental school. If not, there is training available. One place is at the University of Minnesota. I don't see that any more formidable than I do sending my daughter or my son or my grandson off to college someplace to get the training that they needs to pursue the career that they have chosen. There is no difference whatsoever. The thing that I will leave you with is a thought that I had before I even read this letter. It's the last quote that I will give you from the same doctor. He said, "I firmly believe that before long dental therapists will be well accepted members of the dental team and will be embraced

by dentists and the whole health care team and patients." I agree with that. I think, just like other things have evolved with other mid-level trainings and professionals, we have accepted them as a matter of doing business and appropriately so. We will also do this with mid-level dental care. I'd ask you to strongly consider and hopefully support this bill. Thank you, Mr. President.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today in opposition to the pending motion. This has been a long debate, not necessarily the length of time we've been debating it here in the Chamber, but in terms of the days and the months it's been pending in the Legislature. Many of us have discussed it with our dentists, even in those times when we've visited them, during this period. Many of us discussed it at length with colleagues and advocates on both sides. To me, this goes too far too quick. It doesn't address the real problems and creates another level of care that isn't necessary. We've taken great strides and public dollars, dollars voted on by the people of Maine, to invest in a dental school, a dental school that will be graduating 26 Maine residents, an opportunity to bring more dentists to this state. I won't try to compare a dentist and a lawyer, but I had the opportunity to graduate from the University of Maine Law School. Going through that school, without any statistical data at hand today, I clearly know that people stay in the state of Maine based upon where they graduate. They are practicing law here. Once the dental school grows, it will have the same impact. Those practitioners will be able to locate in rural areas in the state and they will be able to provide dentistry. We reimburse dentists at too low of a level. This is an issue about improving the rate of some of these reimbursements. We shouldn't be creating additional layers. We should be improving what we have. Maine is not a state where we can grow our infrastructure. It's a state where we must maximize the infrastructure that we have. We have the opportunity to take advantage of the 96% of Maine dentists that are currently accepting new patients. We have the possibility, if we work together, to grow on the 50% of Maine dentists that participate in MaineCare and increase that. My dentist came back to Maine. She was a Mainer. She joined a practice, a partnership. She has now bought that practice just across the street, over on the rotary. There is a sign out front that she's accepting new patients, accepting MaineCare patients. There has been a lot of debate about where these dentists are located. We have a lot of service centers in this state. People travel for services. Let's just realize how we can grow and improve the infrastructure we have rather than creating a whole new layer. In addition to that, over the years of serving in the Legislature I've continually heard, long before this debate occurred, the challenge of getting kids to the dentist. That is something we must work on. No matter what we do here today, that challenge will still exist. That is a major issue, men and women of the Senate, and that is probably one of the largest issues that we have to deal with. It's not whether we need another set of providers, but how do we get those children to the dentist. This bill does not solve that problem. This bill is very well intentioned. I think it has spurred a great debate. I think, personally, it has moved Maine dentists to do more and you will see more done. I don't think Maine is a state that can afford to create more infrastructure where, on the other hand, we have the

choice to improve the infrastructure we have. We have the choice to bring more children into the system. That's what we must focus on, Mr. President. I strongly encourage us to oppose the pending motion.

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

Senator **PATRICK:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, the good Senator from Sagadahoc brings up some good points. I agree with a lot of them, but part of what he says is part of the problem. Sitting through ten hours of testimony, meeting with 100 dentists, and listening to at least 45 dentists and around 19 hygienists or hygienist's supporters, the one thing I realized was that there is a problem in the state of Maine. The dentists do a good job at doing pro bono work. I've already said I think it was \$2 million or \$3 million they did last year. Even despite all of that, there are thousands of kids not getting dental service. I will be the first one to admit that if we pass this that won't take care of the problem in its entirety. It's an effort going forward to a problem that is not being addressed. There are a lot of things going on in the state and the infrastructure. I agree. It's part of the problem, but we're looking to do is not get them to the dentist office but they are willing to go there. In a lot of cases, going to schools has proven to make sure that it does a good job. Look at the hygienists in the sealant programs and everything has worked wonders.

I really look at this problem in a lot of ways. I sent around a blue sheet. If you like graphs and charts and stuff like that there is a blue sheet that basically shows you a rectangular box that basically shows the 540 codes or dental procedures that a dentist does. If a dentist has eight years of training and 540 codes, that equals to about 67 codes learned per year. Probably not scientific, but just mathematically that's within four of being right. We're asking to do 53 codes, the bottom 53 codes. If you look at my chart, it's a rectangular box, we're going from the bottom up. We're not looking at doing root canals or doing all the fancy stuff that costs a lot of money. We're looking at nipping the problem in the bud.

Ladies and gentlemen, if you take a look at a dentist practice on the other side of the sheet, what does a dentist practice have? They have the bottom level people; the receptionist and clerks. The next one up is the dental assistant. That's funny, there is no certification necessary. They are trained on the job. I like the ones that I've always had. I know my dentist pays them well. Not college educated. Not college trained. Not certified. Then you have a dental radiographer. That dental radiographer can either be a dental hygienist or certified dental assistant. Hygienist or certified dental assistant. Then it moves up to expanded function dental auxiliary. That must be at least a dental hygienist or certified dental assistant with additional training. From there it goes to dental hygienist. It could be an independent practice hygienist or a public health hygienist. They are permitted to give local anesthetic and nitrox oxide. I happen to have an independent practice hygienist because my doctor, Jerrold Cohen, retired. He had a huge practice in Mexico. Thousands of people. He put his practice on the internet, put it everywhere and did not even get a bite. Not one bite, ladies and gentlemen, to help the problem that we have in the area. We do have a clinic there now. Thank God for that.

Ladies and gentlemen, we're looking at trying to solve a problem by giving people, educated people, college educated

people within the dental field, not someone off in left field, but someone already in the dental field, two more years of education in the field of the dentistry procedures that they are going to be doing and then they still have to have oversight of a 1,000 hours. I consider myself a world class maintenance mechanic. I could train a person to become a pipe fitter and a certified pipe welder in a year. We're asking these people, who are already trained in the dental field, to go for two more years of college in the field that they are trying to get their dental procedures, with 1,000 hours of training. I'll tell you one thing right now, 1,000 of training and two years in college, they will probably end up learning those simple 53 codes probably better than a lot of dentists do. If anyone knows and saw me at the committee, it took me 15 minutes to decide whether I was going to go on the dentist's side or go on the hygienist's side. One of the things that actually bothered me, that helped me go that way, in all honesty, was actually one dentist that testified and said, "That's a bad idea. Those 53 codes are at least 70% of my business." I'm saying, "Wow. You've got to be kidding me." Maybe it's true. It's probably true. I've got a lot of confidence in the dentists and all the practitioners that I've seen, but what I'm actually getting at, ladies and gentlemen, are we going to attack the problem that is existing today. It had been existing a couple of years ago. It's getting worst, statistically. Are we going to attack that problem or are we going to wait because we don't have the infrastructure? I don't think so. What is the moral obligation that we have to those that need dental care? I think what this is asking is actually more than what they were asking because we forced them into an extra 500 hours. Ladies and gentlemen, this, I think, is a good first step. Fifty-three codes are not going to replace one dentist. As matter of fact, I will even say that dentists should get on the bandwagon. Look at a dental practice as I just laid out, which is probably pretty much a standard dental practice. Once this comes into fruition, if a dentist in my area in Rumford decided to hire three or four of them, they could actually have one to go up to Rangeley, one to go in Bethel, and one to go into another area. They are actually going to get billable hours off them. It's almost like Amway. They can start their own monopoly. I can see good things coming from all aspects if we pass this bill. This is a good deal for the most vulnerable people in the state of Maine; we're looking at children. They will go to schools. They will go to nursing homes. They will go to other places to make sure that they do these simple procedures. They might not be totally simple in a lot of people's eyes. I've heard all kinds of different things. We're looking at the bottom 53. Ladies and gentlemen, let's do the right thing and let's get this bill passed and move on and move to adjournment. Thank you very much.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I know the hour is late. There were just a couple of things I wanted to say on this very difficult issue which puts me in the situation of having looked at it long and hard and finding myself on the other side of an issue from many people who I know and respect in our community, people in the dental community, and particularly the ones who I know are selfless people who do a lot of pro bono work and a lot of public health work. Like the good Senator from Washington, I spoke at some length with the Dean of the dental school in Minnesota. This is a dentist. We're not reinventing the wheel here. This is not a new

specialty. It's been in use in Alaska, in the tribal communities, for years with apparent success. It's been used more recently in the state of Minnesota. Particularly, as a dentist, I was interested in his perspective. He told me to look at it this way; when open heart surgery began years and years ago a competent surgeon might be able to do one of these surgeries a day. Then as we got more into the team approach in the practice of medicine, a physician's assistant could do a great deal of the prep work and a nurse practitioner could assist with a great deal of the prep work. That same surgeon, who is very skilled at a very technical task, could now do three or four of those per day. More service for more people because lower trained people could properly do what they had to do. I asked him about the way things have actually worked out in Minnesota. Here's what he told me. First of all, these mid-level practitioners were trained on say 50 skills and trained alongside the dentist in that school. As the dentist was learning those 50 skills the mid-level practitioners were learning the same 50 skills. Since they concentrate only on those 50 skills, he said, frankly, "For myself and my own family, I would rather have those services performed by a mid-level practitioner on me than a dentist, who has had to master 600 different things. The more narrow the scope of services someone is trained on the more they do it and the better they get at it." I thought that was an interesting perspective that he had to offer.

Secondly, I was concerned about safety because we are all concerned about the safety of patients. Concerns have been raised about whether the practice will be safe and whether patients will be getting a second-class quality of care in terms of safety. I asked him how it's gone in Minnesota. He said since this program has been instituted a couple of years ago, to his knowledge, and he's the Dean of the dental school, there has not been one single complaint filed against one of this mid-level practitioners alleging that there have been any unsafe practices. The reaction of the dental community, he reported, had been slow in coming, as you might expect. Now people who have graduated from these programs are getting jobs with dentists who are now becoming more accepting of this program and are hiring these people because they realize they can help them in their practice.

I make the analogy of the practice of law. I went to law school, four years of college and three years of law school, but the fact is a lot of what I do in my practice I really don't need that legal degree for. Interviewing witnesses, preparing for depositions, title searches, and indexing records. All those things can be done by someone with less training than I have. By the way, I will tell you a secret, since it's late, that they do it better than I do. It's the same from his perspective with these mid-level practitioners. Again, because they are narrowly focused on narrow tasks, they do things better. Dentists are hiring them. The business model seems to be working.

The time is never right. It's always, "We've got to study this more. We ought to let Minnesota's practice play out a few more years so we can really look at that. We ought to really take a closer look at Alaska. We really ought to come back in another two years." Those were the same arguments we heard in the 125<sup>th</sup>, when this issue first came up. If there is one issue, from my perspective, that doesn't need to be studied and talked about more it's this one. When all of us in this Body spend a great deal of our time fretting about the joint issues of access to health care and the cost of health care, it seems to me that here's an opportunity we have to really do something about both of them. It's a difficult decision for all of us. I know there are strong feelings on both sides. I come down on the side, however,

particularly after looking at the experience in Minnesota, that this is step we ought to take for those kids in Washington County, those adults in the nursing homes in Oxford County, and everyone else in between who ought to have a better shot at access to basic dental care. Thank you, Mr. President.

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

Senator **BURNS:** Thank you Mr. President. Thank you for your indulgence to allow me to speak one more time. I'll be very brief, sir. There were two things that were mentioned. I wholeheartedly agree with the issue about how we have to do better to especially MaineCare kids to the dental appointments. I agree with that. Anything that we can collaborate together on to see that that happens I'm willing to do that. We're not going to do better at getting our long term care patients to the facilities. That's just an issue where the service has to come to them. This can facilitate that. I think we ought to keep that very much in mind. This group of the population needs the service that this will offer. The other thing that I wanted to mention is that we've talked about Minnesota two or three times here tonight. At the first training that they did in Minnesota at the university, 25 dental therapists were trained and one advance dental therapist was trained. That one advanced dental therapist, in a year's time, has serviced 1,500 children. I don't know about you, but I could use that in Washington County and I think in many of the other counties could also. I don't know if it's a good analogy or not, I would much rather have a half a loaf than no loaf at all. I hope you will support this. Thank you.

**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 in support of this motion. I also have two pages of testimony here, but due to the hour I'll make it real short and get right to the meat of it. It's not every day you can get and support a bill that is truly bi-partisan and that has good arguments that both sides appeal to. It's even more rare when one actually helps solve a problem. Expanding the dental team with dental hygiene therapists makes a lot of sense for Maine. We all know we've got a shortage of dentist here in 15 of our 16 counties. We know that almost one in four dentists are going to retire in the next five years and another 16% will reduce their hours. We also know that there were only four new dentists in Maine in 2010 and 2011. Let's move forward with this bill and make Maine a better place for dental care. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-531) 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 (#332)**

YEAS: Senators: BOYLE, BURNS, CRAVEN, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, MASON, MILLETT, PATRICK, PLUMMER, WHITTEMORE, YOUNGBLOOD

NAYS: Senators: CAIN, CLEVELAND, COLLINS, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, HAMPER, JACKSON, LACHOWICZ, LANGLEY, MAZUREK, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **PATRICK** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-531)** Report, in concurrence, **FAILED**.

On motion by Senator **KATZ** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**

Sent down for concurrence.

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

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Establish Superior Court as the Forum in Which Appeals of Agency Decisions Must Be Taken" H.P. 791 L.D. 1119

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-384)** (11 members)

Minority - **Ought Not to Pass** (2 members)

In House, June 7, 2013, 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-384)**.

In Senate, June 19, 2013, Reports **READ**. Bill and accompanying papers **COMMITTED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in **NON-CONCURRENCE**.

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

Senate at Ease.

Senate called to order by the President.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Protect Maine's Scenic Character"

H.P. 812 L.D. 1147

Reported that the same be **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.

Signed:

Senators:

BOYLE of Cumberland  
GRATWICK of Penobscot

Representatives:

WELSH of Rockport  
CHIPMAN of Portland  
COOPER of Yarmouth  
GRANT of Gardiner  
McGOWAN of York

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-550)**.

Signed:

Senator:

SAVIELLO of Franklin

Representatives:

AYOTTE of Caswell  
CAMPBELL of Orrington  
HARLOW of Portland  
LONG of Sherman

Comes from the House with the Majority Report **READ** and **ACCEPTED** and the Bill and accompanying papers **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.

Reports **READ**.

Senator **BOYLE** of Cumberland moved the Senate **ACCEPT** the Majority Report and the Bill and accompanying papers be **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in concurrence.

On motion by Senator **SAVIELLO** of Franklin, 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 Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, very quickly. This bothered me, about referring this report to Energy and Utilities. Why I am on the Minority Report is because we went through a very public process where people came in and spent time offering their opinions and their thoughts. The Commissioner herself came over to offer an amendment, which was never given time to be considered. I have great difficulty referring this to another committee when we, in fact, had all the work in front of us and could have made a decision on the bill.

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

Senator **BOYLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, this bill did get a lot of discussion in the committee about referring. All six sections of the bill are in Title 35A, Sections 3451 through 3457, which is expedited permitting of wind energy development. The majority of the committee knew that the Utilities Committee was dealing with a lot of wind issues and so the majority did feel that it was a more appropriate place and that's why we took that action that we did. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Boyle to Accept the Majority Report and Refer the Bill and accompanying papers to the Committee on Energy, Utilities and Technology, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#333)**

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **BOYLE** of Cumberland to **ACCEPT** the Majority Report and **REFER** the Bill and accompanying papers to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in concurrence, **PREVAILED**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act Regarding Wind Power Siting in the Unorganized Territory"

H.P. 947 L.D. 1323

Reported that the same be **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.

Signed:

Senators:

**BOYLE** of Cumberland  
**GRATWICK** of Penobscot

Representatives:

**WELSH** of Rockport  
**CHIPMAN** of Portland  
**COOPER** of Yarmouth  
**GRANT** of Gardiner  
**McGOWAN** of York

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-549)**.

Signed:

Senator:

**SAVIELLO** of Franklin

Representatives:

**AYOTTE** of Caswell  
**CAMPBELL** of Orrington  
**HARLOW** of Portland  
**LONG** of Sherman

Comes from the House with the Majority Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**.

**ROLL CALL (#334)**

Reports **READ**.

Senator **BOYLE** of Cumberland moved the Senate **ACCEPT** the Majority Report and the Bill and accompanying papers be **REFERRED** to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in concurrence.

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

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

Senator **BOYLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, this bill, in a similar way, the majority of the committee felt that because it was part of Title 35A, the Wind Energy Expediting Permitting area, a lot of it had to do with complex issues with rezoning in LUPC. Most of it revolved around public participation. While we all agree that we want increased public participation for those residents in these areas, again, there was a similar kind of bill, L.D. 385, that was being dealt with in the other committee, which has since moved forward. We really felt that they were going into these issues in great detail in the other committee, and this also involved LUPC, Chapter 35 Title 12, which is the Agriculture, Conservation and Forestry Committee. Just seemed like the view of the majority was that many of these issues were better dealt with in the Energy Committee. Thank you.

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

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand for a couple of reasons. One, it is Chapter 35. I totally agree not Chapter 38. Anything related to Chapter 38 should come to the Environment and Natural Resources Committee. However, we took it. We had a significant hearing. Had a lot of people that took time to come down and speak on behalf of this bill. Again, I feel that their voice will be lost. The second reason why I think this bill should stay with us and we should make the decisions is that many of us, last year and the years before, have dealt with LURC, now LUPC or whatever it's called. We wanted to make sure that the people of the Unorganized Territories had a voice in how they were managed and how they were taken care of. I believe we have this information in front of us and can deal with this appropriately. Thank you very much, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Boyle to Accept the Majority Report and Refer the Bill and accompanying papers to the Committee on Energy, Utilities and Technology, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

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 **BOYLE** of Cumberland to **ACCEPT** the Majority Report and **REFER** the Bill and accompanying papers to the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, in concurrence, **PREVAILED**.

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

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

**ENACTORS**

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

**Act**

An Act To Buy American-made Products  
S.P. 311 L.D. 890  
(H "A" H-557 to C "A" S-303)

\_\_\_\_\_  
Senate at Ease.

Senate called to order by the President.

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

**Resolve**

Resolve, Relating to a Review of Risks Associated with Tar Sands Oil

H.P. 970 L.D. 1362  
(H "A" H-543 to C "A" H-428)

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

Ordered sent down forthwith.

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

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**RECESSED** until 12:03 in the morning.

After Recess

Senate called to order by the President.

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The following proceedings were conducted after 12:01a.m., Thursday, June 20, 2013.

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

**PAPERS FROM THE HOUSE**

**House Paper**

Bill "An Act To Preserve Code Enforcement Officer Training and Certification"

H.P. 1135 L.D. 1565

Comes from the House, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion by Senator **JACKSON** of Aroostook, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Change the Voting Requirements for the Withdrawal of a Municipality from a Regional School Unit" (EMERGENCY)

H.P. 534 L.D. 783  
(H "A" H-561 to C "A" H-552)

In Senate, June 19, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552) AS AMENDED BY HOUSE AMENDMENT "A" (H-561)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-552) AS AMENDED BY HOUSE AMENDMENT "B" (H-567)** thereto, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Authorize Options for Local Revenue Enhancement" H.P. 299 L.D. 427

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-363)** (3 members)

In House, June 19, 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-363)**.

In Senate, June 19, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 221

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

June 19, 2013



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

Dear Secretary Grant:

House Paper 759, Legislative Document 1066, "An Act To Increase Access to Health Coverage and Qualify Maine for Federal Funding," 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 Bill become a law notwithstanding the objections of the Governor?"

95 voted in favor and 52 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ** and **ORDERED PLACED ON FILE**.

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

**REPORTS OF COMMITTEES**

**Senate**

**Pursuant to Joint Rule 309**

From the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Improve the Return to the State on the Sale of Spirits and To Provide a Source of Payment for Maine's Hospitals" (EMERGENCY)

S.P. 75 L.D. 239

Received by the Secretary of the Senate on June 19, 2013, pursuant to Joint Rule 309.

Report **READ**.

On motion by Senator **TUTTLE** of York, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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From the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Strengthen the State's Wholesale Liquor Business" (EMERGENCY)

S.P. 234 L.D. 644

Received by the Secretary of the Senate on June 19, 2013, pursuant to Joint Rule 309.

Report **READ**.

On motion by Senator **TUTTLE** of York, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide Tax Fairness to Maine's Middle Class and Working Families"

H.P. 785 L.D. 1113

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-526)**.

Signed:

Senators:

MILLETT of Cumberland  
HASKELL of Cumberland

Representatives:

GOODE of Bangor  
BROOKS of Winterport  
LIBBY of Lewiston  
MAREAN of Hollis  
MOONEN of Portland  
STANLEY of Medway  
TIPPING-SPITZ of Orono

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

Signed:

Senator:

THOMAS of Somerset

Representatives:

BENNETT of Kennebunk  
JACKSON of Oxford

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-526) AS AMENDED BY HOUSE AMENDMENT "A" (H-565)** thereto.

Reports **READ**.

On motion by Senator **HASKELL** of Cumberland, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

**ENACTORS**

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

**Acts**

An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use

S.P. 72 L.D. 236  
(H "B" H-563; S "A" S-285  
to C "B" S-282)

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

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An Act To Further Energy Independence for the State  
H.P. 651 L.D. 927  
(C "A" H-554)

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

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An Act To Maximize Funds Available To Provide Oral Health Care Services to Persons with Developmental, Behavioral or Other Severely Disabling Conditions Requiring Specialized and Time-intensive Oral Health Care

H.P. 1068 L.D. 1486  
(H "A" H-562 to C "A" H-520)

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 222

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

June 19, 2013

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

Dear Secretary Grant:

The House voted today to insist on its previous action whereby it accepted the Minority Ought to Pass as Amended Report of the Committee on Health and Human Services on Resolve, To Require the Department of Health and Human Services To Request a Waiver To Prohibit the Use of Food Supplement Benefits for the Purchase of Taxable Food Items (S.P. 505) (L.D. 1411) (EMERGENCY) and Passage to be Engrossed as Amended by Committee Amendment "B" (S-309).

Sincerely,

S/Millicent M. MacFarland  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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Senate at Ease.

Senate called to order by the President.

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

**COMMUNICATIONS**

The Following Communication: S.C. 492

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
OFFICE OF THE GOVERNOR**

19 June 2013

The 126<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 126<sup>th</sup> Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1451, "An Act To Require the Membership of the State Workforce Investment Board To Include Representatives of the Local Workforce Investment Boards."

The State Workforce Investment Board has been rebuilt to increase the efficiencies of our workforce investment system. For years, approximately 20 percent of workforce investment funds have been spent on actual skills training, with the remainder squandered on overhead and administration. Refocusing the system to eliminate waste and duplication will provide more resources for training. This will yield benefits for hardworking families and Maine businesses alike.

Local input is important, which is why the redesigned system aligns our workforce areas with our regional chambers of commerce. This is important because, when we talk about the skills gap in Maine, we talk about the skills our businesses require but our workforce lacks. Adding more bureaucracy by having the local boards automatically sit on the State board will simply slow things down and stop us from focusing on the goal: putting Mainers to work.

For these reasons, I return LD 1451 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The accompanying Bill:

An Act To Require the Membership of the State Workforce Investment Board To Include Representatives of the Local Workforce Investment Boards

S.P. 535 L.D. 1451

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#335)**

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, and 19 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

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

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

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**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Restore Uniformity to the Maine Uniform Building and Energy Code"

H.P. 691 L.D. 977

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-555)** (9 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-556)** (3 members)

Report "C" - **Ought Not to Pass** (1 member)

Tabled - June 19, 2013 by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 19, 2013, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)** READ and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**.)

(In Senate, June 19, 2013, Reports **READ**. Motion by Senator **PATRICK** of Oxford to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)**, in concurrence, **FAILED**.)

Senator **PATRICK** of Oxford moved the Senate **ACCEPT "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-556)**, in **NON-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 (#336)**

**YEAS:** Senators: **BOYLE, GERZOFSKY, GRATWICK, MILLETT, PATRICK**

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

5 Senators having voted in the affirmative and 30 Senators having voted in the negative, the motion by Senator **PATRICK** of Oxford to **ACCEPT "B", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-556)**, in **NON-CONCURRENCE, FAILED**.

Senator **PATRICK** of Oxford moved the Senate **ACCEPT Report "C", OUGHT NOT TO PASS**, in **NON-CONCURRENCE**.

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

Senator **CUSHING:** Thank you Mr. President. Just briefly, I want to thank my colleague from Oxford County for accepting the will of the Body and I appreciate the hard work he tried to do, but perhaps another day we can accomplish something for him. Thank you, Mr. President.

On motion by Senator **PATRICK** of Oxford, Report **"C", OUGHT NOT TO PASS ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

---

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

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

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor (EMERGENCY)

H.P. 893 L.D. 1259  
(C "A" H-257)

Tabled - June 19, 2013, by Senator **HILL** of York

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257) AND SENATE AMENDMENT "A" (S-246)**, in **NON-CONCURRENCE**

(In Senate, June 3, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence.)

(In House, June 6, 2013, **FAILED FINAL PASSAGE**.)

(In Senate, June 10, 2013, on motion by Senator **JACKSON** of Aroostook, **RULES SUSPENDED. RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence. On further motion by same Senator, Senate Amendment "A" (S-246) **READ** and **ADOPTED**.)

On motion by Senator **JACKSON** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-257), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-318) to Committee Amendment "A" (H-257) **READ** and **ADOPTED**.

Committee Amendment "A" (H-257) as Amended by Senate Amendment "A" (S-318) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257) AS AMENDED BY SENATE AMENDMENT "A" (S-318)** thereto **AND SENATE AMENDMENT "A" (S-246)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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On motion by Senator **GOODALL** of Sagadahoc, the Senate removed from the **SPECIAL STUDY TABLE** the following:

An Act To Ensure State Coordination and Oversight of Health Plans

S.P. 376 L.D. 1094  
(C "A" S-185)

Tabled - June 10, 2013, by Senator **GOODALL** of Sagadahoc

Pending - **ENACTMENT**, in concurrence

(In Senate, June 5, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-185).**)

(In House, June 10, 2013, **PASSED TO BE ENACTED.**)

On further motion by Senator **WHITTEMORE** of Somerset, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-185).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-185).

On further motion by same Senator, Senate Amendment "A" (S-314) to Committee Amendment "A" (S-185) **READ** and **ADOPTED.**

Committee Amendment "A" (S-185) as Amended by Senate Amendment "A" (S-314) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-185) AS AMENDED BY SENATE AMENDMENT "A" (S-314)** thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Amend the Retirement Laws Pertaining to Participating Local Districts"

H.P. 1034 L.D. 1440

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-568).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-568).**

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

**READ ONCE.**

Committee Amendment "A" (H-568) **READ** and **ADOPTED**, in concurrence.

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

Ordered sent forthwith to the Engrossing Division.

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

**COMMUNICATIONS**

The Following Communication: H.C. 223

**STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0001**

June 19, 2013

The 126th Legislature of the State of Maine  
State House  
Augusta, Maine

Dear Honorable Members of the 126th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 851, "An Act To Allow the Return of Excess Funds by a Municipality That Forecloses on Real Estate."

In its current form, this bill is well-meaning. When any foreclosure occurs on real estate – whether by a municipality, the State, or a private lender – the former property owner should receive any remaining equity after all debts, interest, and costs are paid. My concern is the use of "may" in this current draft, rather than "must."

I return this bill today because it does not go far enough. I am concerned this measure, in its current form, will create the impression that action has already occurred and that we need not do more. As a mayor, I was always concerned that the city might

be tempted by a windfall if it foreclosed on a property. Changing one simple word in this bill would remove any temptation from our towns as they make decisions on foreclosure.

We must do more to expedite foreclosures in our current system when it becomes clear a homeowner will not be able to afford their property. But we must also protect a homeowner's equity that is rightly theirs. That is why I return this bill and ask that we return to the process and make the policy reflected in this bill even stronger.

For these reasons, I return LD 851 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The accompanying Bill:

An Act To Require the Return of Excess Funds by a Municipality That Forecloses on Real Estate

H.P. 602 L.D. 851

Comes from the House, 89 members having voted in the affirmative and 43 members having voted in the negative, the veto of the Governor was **OVERRIDDEN** and it was the vote of the House that the Bill become law notwithstanding the objections of the Governor.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#337)**

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, and 20 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED**.

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

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Senate at Ease.

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Provide Tax Fairness to Maine's Middle Class and Working Families"

H.P. 785 L.D. 1113

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-526)** (9 members)

Minority - **Ought Not to Pass** (3 members)

In House, June 19, 2013, 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-526) AS AMENDED BY HOUSE AMENDMENT "A" (H-565)** thereto.

In Senate, June 19, 2013, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

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

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

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

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

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

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On motion by Senator **GOODALL** of Sagadahoc, **ADJOURNED**, pursuant to the Joint Order, to Wednesday, June 26, 2013, at 10:00 in the morning.