

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Sixth Legislature  
State of Maine

Daily Edition

Second Regular Session  
beginning January 8, 2014

beginning at Page 1544

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

In Senate Chamber  
Thursday  
April 3, 2014

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

Prayer by Reverend Sally Colegrove, Windham Hill United  
Church of Christ.

**REVEREND COLEGROVE:** Good morning. It's an honor for me to be here as chaplain this morning. Let us turn our hearts and minds towards God in prayer.

Most Holy and Gracious God, we call You by many names: Great, Wonderful, Mighty, Wise. We know You in many ways. We give You thanks, that You have journeyed with us through a hard winter, and we as that spring might soon grace our state. We pray that in these early days of spring we might each find new life for ourselves and for our friends and neighbors. Keep Your hand on all those who struggle with the economy, healthcare, nourishment, or housing. This morning, we would ask that You be present here in this place of decision and challenge. Bless those gathered with the gift of discernment, that they might make good choices for all who live in our state. As we look at the newspapers and internet we are amazed by the world that confronts us. Our thoughts turn to Syria and Ukraine, Chile, Afghanistan, and all of the Middle East. We would be bold to ask for Your intervention, Holy One, in the affairs of the nations of our world. We pray for all those in the armed forces who are on duty today, and ask that You might keep them safe and return them home. We ask for healing for those who have been injured and comfort for those families who have lost a loved one. Spirit of all hope and healing, we continue to pray for those who are grieving family members who died in the mudslide in Washington state. It's dangerous for the responders to work in land that still might shift. Work with them, so that relatives and friends may have answers to the fate of loved ones. In the same way, let there be resolution to the search in the waters of the Indian Ocean for the missing aircraft. There are so many good people who are risking their lives every day in fire and flood, ice, rain, and wind. We pray for the firefighters of Boston, those lost and those who remain, as they remember the ultimate sacrifice of two brothers. Keep watch over those who work in our state; business folk and the fishing community, farmers, teachers, caregivers, laborers, homemakers, and volunteers. Bless the Senators now as they begin their appointed tasks and bless all of the people of Maine as they go about their lives, both now and in the days to come. Lord, in Your mercy, hear our prayer. Amen.

Pledge of Allegiance led by Senator Douglas A. Thomas of  
Somerset County.

Reading of the Journal of Wednesday, April 2, 2014.

Doctor of the day, Peter Amann, MD of Scarborough.

Off Record Remarks

PAPERS FROM THE HOUSE

Joint Order

Tim C. Walton, of Fayette, who was named Associated Builders and Contractors' ambassador to Merit Canada. The position will directly support and promote the efforts of the CAN-AM Merit Alliance, formed between Associated Builders and Contractors and Merit Canada. Mr. Walton is director of external affairs and public policy at Cianbro in Pittsfield and will be working with Merit Canada to address key issues relevant to construction contractors in North America and advancing free enterprise. We extend our congratulations and best wishes to Mr. Walton on this appointment;

HLS 822

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

**READ.**

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, many of us have seen Time Walton for a number of years walking the halls here and he actually has been appointed Ambassador to Merit Canada. I thought he would be here today with a tuxedo on but he's just an ordinary guy. The reason this is important is we have a Maine/Canadian legislative group, Democrats and Republicans, who talk with our counterparts in Quebec and the other Maritime Provinces. They aren't maritime, you've got to be careful. Tim is part group, Ambassador Walton I should say. He's now in a more prestigious group and he represents American business on this side. He is also Ambassador to Merit Canada, which is really a group of Canadian business folks that are trying to deal with common policies, common trade across the border. It's a prestigious appointment, along with the idea it's a very practical appointment. I wish him well in his position and see how he dresses next time. Thank you.

**PASSED**, in concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the rear in the chamber Tim C. Walton of Fayette. Will he please rise and accept the warm greetings of the Maine State Senate.

**Joint Resolution**

The following Joint Resolution:

H.P. 1337

**JOINT RESOLUTION RECOGNIZING APRIL 2, 2014  
AS ARTS EDUCATION DAY**

WHEREAS, access to a high-quality education in all content areas for all students is vital to the future of the State of Maine; and

WHEREAS, arts literacy is fundamental to the complete education of all students; and

WHEREAS, arts education stimulates critical thinking, creativity and imagination, increases cooperative decision-making and leadership skills, promotes high-level literacy and communication and affords the opportunity for problem-posing and problem-solving; and

WHEREAS, arts education prepares students for the workplace by contributing significantly to the creation of creative, flexible, adaptable and knowledgeable workers who are needed in the 21st-century economy; and

WHEREAS, arts education is more successful when parents and families, artists, arts organizations, businesses and community institutions actively support arts education programs taught by qualified teachers; and

WHEREAS, outstanding arts education programs in schools and organizations across the State of Maine should be encouraged and publicly recognized; and

WHEREAS, educators, parents, students and other community members recognize the importance of requiring students to meet high standards in arts education; and

WHEREAS, the mission of the Maine Alliance for Arts and Education is to promote and advocate for arts, culture and educational excellence in visual art, music, theater, dance and writing in all Maine schools and communities; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature of the State of Maine now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize Wednesday, April 2, 2014 as Arts Education Day for the State of Maine; and be it further

RESOLVED: That we honor the outstanding education and advocacy work of Gloria Hewett, Suzanne Goulet and Emily Bean and send them our appreciation for their commitment to arts education; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Gloria Hewett, Suzanne Goulet, Emily Bean and the Maine Alliance for Arts and Education.

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

**READ and ADOPTED**, in concurrence.

**COMMUNICATIONS**

The Following Communication: S.C. 875

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

April 2, 2014

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

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Veterans and Legal Affairs has had under consideration the nomination of Robert A. Harmon of Raymond, for appointment to the Gambling Control Board.

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

YEAS	Senators	2	Tuttle of York, Mason of Androscoggin
	Representatives	8	Luchini of Ellsworth, Beaulieu of Auburn, Fowle of Vassalboro, Kinney of Limington, Longstaff of Waterville, Russell of Portland, Saucier of Presque Isle, Schneck of Bangor
NAYS		0	
ABSENT		3	Sen. Patrick of Oxford, Rep. Gifford of Lincoln, Rep. Turner of Burlington

Rep. Mitchell of Penobscot Nation was absent.

Ten members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of Robert A. Harmon of Raymond, for appointment to the Gambling Control Board be confirmed.

Signed,

S/John L. Tuttle  
Senate Chair

S/Louis J. Luchini  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **VETERANS AND LEGAL AFFAIRS** be overridden?"

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#528)**

YEAS: Senators: None

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

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Robert A. Harmon** of Raymond for appointment to the Gambling Control Board was **CONFIRMED**.

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

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The Following Communication: S.C. 870

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
SPEAKER'S OFFICE**

April 2, 2014

Honorable Darek Grant  
Secretary of the Senate  
#3 State House Station  
Augusta, ME 04333-0002

Dear Secretary Grant:

Pursuant to my authority under Title 5, MRSA, §2003, I am pleased to appoint the following to the Maine Library of Geographic Information Board:

Vern Maxwell of Woodstock as a representative of a statewide association of municipalities.

Jake Metzler of Bangor as a representative of a statewide association representing environmental interests.

Should you have any questions regarding these appointments, please do not hesitate to contact me.

Sincerely,

S/Mark W. Eves  
Speaker of the House

**READ and ORDERED PLACED ON FILE.**

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The Following Communication: S.C. 871

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

April 1, 2014

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

Dear President Alfond and Speaker Eves:

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

L.D. 1823 An Act To Amend the Outcome-based Forestry Experiment Laws

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

Sincerely,

S/Sen. Eloise A. Vitelli S/Rep. James F. Dill  
Senate Chair House Chair

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

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The Following Communication: S.C. 872

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE  
COMMITTEE ON ENERGY, UTILITIES AND TECHNOLOGY**

April 1, 2014

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

Dear President Alfond and Speaker Eves:

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

L.D. 965 An Act To Improve Maine's Underground  
Facility Damage Prevention Program

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

Sincerely,

S/Sen. John J. Cleveland  
Senate Chair

S/Rep. Barry J. Hobbins  
House Chair

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

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The Following Communication: S.C. 873

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

April 1, 2014

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

Dear President Alfond and Speaker Eves:

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

L.D. 1818 An Act To Facilitate Public Records Requests  
to State Agencies

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

Sincerely,

S/Sen. Linda M. Valentino  
Senate Chair

S/Rep. Charles R. Priest  
House Chair

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

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The Following Communication: S.C. 874

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

April 01, 2014

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

Dear President Alfond and Speaker Eves:

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

L.D. 1836 An Act To Establish the Commission on  
Promoting Manufacturing in Maine

L.D. 1846 An Act To Require the Licensure of Scrap Metal  
Recyclers and Mobile Scrap Metal Dealers

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

Sincerely,

S/Sen. John L. Patrick  
Senate Chair

S/Rep. Erin D. Herbig  
House Chair

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

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**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Increase College Affordability and the Rate of Degree Completion"  
S.P. 668 L.D. 1703

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-489).**

Report **READ.**

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

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Senator **PATRICK** for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Improve Workers' Compensation Protection for Injured Workers Whose Employers Have Wrongfully Not Secured Workers' Compensation Insurance"

S.P. 736 L.D. 1833

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-491)**.

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

**READ ONCE**.

Committee Amendment "A" (S-491) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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Senator **HASKELL** for the Committee on **TAXATION** on Bill "An Act To Clarify the Provisions of a Historic Preservation Tax Credit"

S.P. 655 L.D. 1661

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-493)**.

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

**READ ONCE**.

Committee Amendment "A" (S-493) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

Senator **HASKELL** for the Committee on **TAXATION** on Bill "An Act To Encourage Charitable Contributions to Nonprofit Organizations"

S.P. 659 L.D. 1664

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-492)**.

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

**READ ONCE**.

Committee Amendment "A" (S-492) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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All matters thus acted upon were 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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#### 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 (3/20/14) matter:

JOINT ORDER - Expression of Legislative Sentiment  
Recognizing the South Portland High School Jazz Band  
SLS 814

Tabled - March 20, 2014, by Senator **MILLETT** of Cumberland

Pending - **PASSAGE**

(In Senate, March 20, 2014, on motion by Senator **MILLETT** of Cumberland, **READ**.)

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

Senator **MILLETT:** Thank you Mr. President. Ladies and gentlemen of the Senate, we are joined this morning by the South Portland Jazz Ensemble. They have been recognized as one of the top groups in New England for the past 20 years. They have won the Maine State Instrumental Jazz Festival 14 times and the Berklee College of Music Festival 4 times. Five members of the group were selected to Maine Jazz All State this past year; Freshmen Own Doane and Giffin Gingrich, Juniors Alex Quinn and Cole Lemelin, and Senior Taylor Knowles. Both Alex Quinn and Taylor Knowles were recognized as outstanding soloists at this year's Maine State Jazz Festival. As far back as Plato we have recognized the role of music in our lives. He said, "Music is

a moral law. It gives soul to the universe, wings to the mind, flight to the imagination, and charm and gaiety to life and to everything." We are most grateful to have these young musicians in our presence and we congratulate them on their achievement.

**PASSED.**

Sent down for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the balcony the South Portland High School Jazz Band. They are the guests today of the Senator from Cumberland, Senator Millett. Will they please rise and accept the warm greetings of the Maine State Senate.

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The Chair laid before the Senate the following Tabled and Later Assigned (3/20/14) matter:

JOINT ORDER - Expression of Legislative Sentiment  
Recognizing Alex Quinn, of South Portland  
SLS 812

Tabled - March 20, 2014, by Senator **MILLETT** of Cumberland

Pending - **PASSAGE**

(In Senate, March 20, 2014, on motion by Senator **MILLETT** of Cumberland, **READ**.)

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

Senator **MILLETT:** Thank you Mr. President. Again, we are so pleased to have Alex with us this morning. He has received the Division 1 Outstanding Musician Award for trumpet at the 2014 Maine State High School Instrumental Jazz Festival. I'd also like to mention that Alex was also recognized as Outstanding Soloist at the Berklee College Festival. We are very grateful for his presence and his bringing music to all of our lives. We congratulate him on his achievement.

**PASSED.**

Sent down for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the balcony Alex Quinn of South Portland. He is the guest today of the Senator from Cumberland, Senator Millett. Will Alex please rise and accept the warm greetings of the Maine State Senate.

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The Chair laid before the Senate the following Tabled and Later Assigned (3/31/14) matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Resolve, Regarding Legislative Review of Chapter 201: Provider of Last Resort Service Quality, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 33 L.D. 38

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-727)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-728)** (6 members)

Tabled - March 31, 2014, by Senator **CLEVELAND** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727)** Report, in concurrence

(In House, March 28, 2014, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727)**.)

(In Senate, March 31, 2014, Reports **READ**.)

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

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

Senator **CLEVELAND:** Thank you Mr. President. Women and men of the Senate, this is a divided report. The Majority Report of Ought to Pass as Amended is the motion that I put on the floor. This is a report that's supported by the Public Utilities Commission, the Office of the Public Advocate, and the Telephone Association of Maine, except for FairPoint. What this bill does is really places before the Legislature, where it belongs, a very significant policy issue. That issue is: to what degree should all customers of any sort of telecommunications telephone service be required to pay into a main universal service fund to help fund the largest telephone company in the state, FairPoint? Incidentally, none of my remarks are at all derogatory towards the company. I think FairPoint has worked hard. They are doing a good job in trying to provide good, reliable service. There is a policy issue here. Never before has the largest telephone utility in Maine requested public support for the day-to-day operations, for the funding of its day-to-day operations. Just recently the company has filed at the Public Utilities Commission a request for rate review. In that request they have done a couple of things. One is they've requested that those customers who receive what's known as service from the provider of last resort, about 30,000 customers, have a \$2 increase per month on their bill for that service. That would generate about \$700,000 a year. However, what they've also requested at the Public Utilities Commission is that they receive \$67 million from the Maine Universal Service Fund, a fund that receives its money from putting an additional charge on the bills of any customer who



uses any sort of telephone-telecommunication services; your cell phone, your cable phone, your third party providers for telephone services that you may have, and many more. That \$67 million, should it be granted, would result in a \$5 per month, \$60 per year, increase charge on everybody's telephone bill. This is the first time that the largest telephone utility has ever requested funds from the Maine Universal Service Fund. Currently only some of the smaller companies received some support because they are using money for expanding broadband, and because they have a small service area and a smaller number of customers. The total amount of all of those receiving it in the small companies is only \$8 million a year. That seemed appropriate.

This is not a bill to interfere with rate making. It is not the purview of the Energy Committee or this Legislature to do rate making. We want the Public Utilities Commission to do all the due diligence they always do in rate making; to look at the revenues, to look at the expenses, and determine what's the best way to get the revenues necessary for the customers of that business and the what's the amount of revenues they need to meet their basic expenses to run the system. However, when now they're asking that everybody who uses any sort of device. Incidentally, just to give you a sense of the scope, 1.1 million Mainers have cell phones out of a population of 1.3 million. You can see it's virtually all of us. We have simply said in this policy for the Public Utilities Commission to do their work as they always do. We have full confidence that they will. At the end of their process, likely in October of this year, if they find that after reviewing all other sources of revenue, and reviewing all expenses and making all reductions in those expenses that they can, that the company needs support from all the rest of us through the Maine University Service Fund that question should come back to the Legislature, not to do rate making but to make a policy decision; is this the right thing for the state of Maine, should we be asking all the other customers who don't directly use FairPoint to pay for that service? I think your constituents would be rather surprised if we didn't do that, that we didn't make a policy decision on how best to go forward. Frankly, whether we looked at it and said, "Are there ways we could make any changes that might relieve the company of some current requirements or find some other alternative towards providing that basic telephone service to those who have often times, no always but often, no other choice for telephone communications?" The choice would simply be to review it. We could approve it. We could make some changes based on finding a different alternative to meet those requirements or we could deny it. It's important, I think, that the Legislature makes that decision. That does not interrupt any other part of the rate making. The Public Utilities Commission can order an increase, as I mentioned before, in the rates for those who do get phone service. They can approve the revenues from all of the rest of the customers for the bills that they send out for their services. They can approve the revenue for the other kinds of services they provide for internet and many other kinds of things. This one area needs to have legislative approval, to see if we think that this is the correct policy before our constituents see \$5 a month increase in their bill. I know just a short while ago that this Body was quite concerned if there was a 5¢ increase to help provide solar energy; 60¢ a year. We're talking about \$5 a month and \$60 a year, substantially different. If there is a concern about costs and rates going to other folks than it ought to be consistent and we ought to have a review here as well. It may not be a long delay. It may be that when it comes back the number is a lot less than \$67 million. I hope that it is. It

may be that the committee does have the authority to report out a bill and in early January, if we find that there is a quick and easy resolution, we can move the bill quickly, hopefully with an Emergency Preamble, and allow it to move forward quickly. Before all of that happens, I think we need the opportunity, all of us, to take a look at the policy issue that's required here.

Let me set this in a little bit of a context for you. This is not a one-time request. If they don't have a sufficient funding to meet their expenses this year there is no indication that it will be any different the year after that or future years. There's no expectation that it would necessarily be less. It may well be more, because we're entering new and uncharted worlds. The landline companies that we were so dependent on, and still are, now are in a competitive world. They are losing their landline customers by the tens and hundreds of thousands. They are not receiving the same revenues that they had before but they still have an important and vital and critical role to play because they are the backbone of the entire telecommunication system in this state. Virtually every call, whether it's cell phone or some other way, during a portion of its journey goes through the backbone of that utility. It's important that we have a strong and functional and profitable industry that can support that, but if that's the case we need to make the policy on how we're going to go forward to do this in this new world, where you have a hybrid of competition for everything else except in the provider of last resort. This is not an effort to undermine the company in any way. We know how important they are. We know how vital they are to the economy of this state, but we think that before a major policy of this magnitude is made there ought to be an opportunity for the Legislature to review this. Incidentally, the Public Utilities Commission supports that the Legislature should look at this. They do not see it as an adverse interference with their rate making process. I hope that you would support the motion. I hope that you would allow the Legislature to make a policy decision on this as needed next year so that we can build a strong, viable, successful telecommunication system that can be funded ongoing in a reasonable way, without putting unnecessary or extravagant burdens on everyone else to fund it. 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, it's a pleasure to speak with you today and I've just become confused. It's easy when you get old, as some of you know, to easily get confused. I agree with the items that Senator Cleveland was just referring to, but I believe those all refer to L.D. 1479, which is later held as Item 10, which we'll be taking up, I'm sure, down the road. According to my notes, number 13 has to do with quality of service. Quality of service, this was greatly, length debated in our committee. The report came out 7-6, very close. A lot of things we agreed on. We do need to do an in-depth, and we talked about doing it in committee this year, there just was not time to do it. More importantly, we didn't think that we had the data necessary to make those decisions that POLR service in Maine is at a critical point and it absolutely needs a study, needs some data, needs some comparison to give us some direction. That will be a high priority, I'm sure, in the 127<sup>th</sup> for the Energy Committee. The basic thing that L.D. 38 does is change, for one company, what it is if you aren't providing the quality of service; you're getting a lot of telephone complaints, month after month. It allows them, the

PUC, to charge that company a half a million dollars penalty on an annual basis. This bill, for one company, increases that to \$2 million. It's, I think, bad public policy when you pick on one particular company for what should be a general legislation by this wonderful group that we have here. We can't, or ought not to be, be making a lot of these kinds of changes on an ad hoc basis. Quality of service for POLR services is very, very important and it is absolutely critical that it be adequate, that it be done correctly. It's about the security of your home. When you have to call 9-1-1, when you have to call the fire department, you need to know that a quality of service is there, whether you're with a large telephone company or a small telephone company. The ability to call 9-1-1, whether I live in Portland or Unity, doesn't make any difference, it's just as important to me to make sure that when I pick up the phone it's going to work. That's what this bill was really all about. We need more data, as so eloquently relayed by Senator Cleveland here just a few minutes ago, and that's coming and we'll have that data next year. To be saying we should increase the fines on one company, at this point in time, doesn't make any sense in the world to me at all and I urge you to vote against the motion that put that \$2 million annual fee in place and let us move on to another amendment. Thank you very much.

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

Senator **CLEVELAND:** Thank you Mr. President. Women and men of the Senate, my apologies. Senator Youngblood is absolutely correct. I misplaced my notes in the wrong folder. The good news is that I won't have to give that speech again, you'll only hear it that once. Let me comment on this bill. This bill is a major substantive rule that came before the Legislature, before the committee, and the purpose of the rule. Let me back up. When the 125<sup>th</sup> Legislature did telecommunications reform part of what occurred is that the performance standards that we associated with the regulated telephone companies were deleted with that reform. Performance standards have always been there. That has been an expectation. I think probably unintentionally they were deleted. The performance standards weren't there. The Legislature, previous, was asked at the Public Utilities Commission to do a rule making and come up with a major substantive rule in regards to quality of service for those telephone companies. The original substantive rule that came to us was objected to by the telephone companies, including the small telephone companies. They thought they were too severe and too strict and that the performance standards were too narrow and didn't have enough flexibility on it. We asked them to be reviewed again. They were and what came before you was a much more flexible review of that.

The Public Utilities Commission, of course, supports this compromise, the public advocates supports it and the Telephone Association of Maine supports it, except, of course, for FairPoint. Very quickly, all this simply does is says that if your telephone company, regulated under the provider of last resort requirements, will have some minimal level of performance for the customers that they serve. Let me quickly just tell you what those performance standards are by category. One category is a percentage of installation appointments not met. If you call, you want your telephone hooked up; did they get to the appointment or did they not get to the appointment? How many times did that occur? The average delay days for missed appointments is the second. The third is how long it took them to respond to a

network trouble report; what that rate is. The percentage of the network troubles are responded or resolved within 24 hours and response to service outages. It's set up on a rolling average. It's not strict so that if you are a little low on one month you automatically get fined. It provides for waivers and good cause if you did not meet them, and any penalties are not mandatory. The commission has total flexibility to take a look at the facts of the case and determine whether there was reasonable and good efforts to meet those standards and really in only the cases that were flagrant or persistent is the commission interested in using a penalty system to encourage the utility to meet their requirement to serve properly. Even though it may be up to \$2 million a year in a huge company, that is not as huge a rate as it seems and it was what they were subject to previously, before it was deleted in the previous section. It's not a new or larger requirement; it just is reinstated in these particular rules here. We think it's reasonable and fair, if a telephone company has responsibilities to serve, that they meet certain reasonable and basic standards, that these are flexible standards. They are rolling averages based per quarter. They are not just single, one number, and if you pass it by one than you end the problem. They allow lots of efforts to have a discussion with the Public Utilities, determine what the circumstances are, because the real thing we all want to do is make sure there is good service. We're not interested in fining companies to make them do what we'd like to do, to service their customers properly, but in the worst case scenario, if it's necessary to do that to get compliance, you can't have a regulation if there isn't some teeth at some point down the end of the road to require that there's compliance or there's a consequence for it. I think it's fair and reasonable. All others are supportive of it and I would urge your support for the bill.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Cleveland to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-727) 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 (#529)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFSKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, VITELLI, 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 **CLEVELAND** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-727) Report, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-727) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later Assigned (3/27/14) matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Clarify Telecommunications Regulation Reform"  
H.P. 1060 L.D. 1479

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-740)** (10 members)

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

Tabled - March 27, 2014, by Senator **CLEVELAND** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 27, 2014, 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-740)**.)

(In Senate, March 27, 2014, Reports **READ**.)

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

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

Senator **CLEVELAND:** Thank you Mr. President. I'll be very brief. I didn't intend to make such a long speech on that particular bill. My good colleague Senator Youngblood is actually on the Majority of that bill as well. I think I explained more than you perhaps needed to explain, but I think it's an important policy decision and I hope that you will support the Majority Report.

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

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would like to compliment the good Senator from Androscoggin on his outstanding job of preparing us for this bill to come along. It's here. I wholeheartedly agree with him. I thought I wouldn't have had things straight because I was getting a little confused. I would urge you all to vote for this. It's a good bill. We need it very, very badly. Thank you.

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

**READ ONCE.**

Committee Amendment "A" (H-740) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later Assigned (4/2/14) matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Ensure That Large Public Utility Reorganizations Advance the Economic Development and Information Access Goals of the State"  
H.P. 1263 L.D. 1761

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-772)** (7 members)

Report "B" - **Ought Not to Pass** (5 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-773)** (1 member)

Tabled - April 2, 2014, by Senator **CLEVELAND** of Androscoggin

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**, in concurrence

(In House, April 1, 2014, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**.)

(In Senate, April 2, 2014, Reports **READ**.)

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

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

Senator **CLEVELAND:** Thank you Mr. President. I believe I'm on the right bill, 1761. This report is really a strong Majority Report in the sense that Report "A" and Report "C" are essentially the same. The only difference between the two reports is that one member felt it should apply to all telephone companies regardless of their size. Report "A" has it apply simply to the largest telephone company in the state. That is the report that I moved and the report that I hope you can support today.

What does the bill do? It does really simply two things: one is that when there is a merger or acquisition, that is a telephone company that is specifically the largest telephone company in

Maine may be either sold or merged in the future, which happens with telephone companies, that it changes the standard for review slightly. Instead of this review being that there is no net harm in the acquisition or merger it says, essentially, that there would be a net benefit to the customers and consumers in the state for the telephone service. Secondly what it does is add some additional language that is flexible but important that says that when the Public Utilities Commission looks at an acquisition or merger it also takes a look at the issue of where the location of the management facility will be so that it is within the service territory so that there would be readily access to that management facility and the decision makers there. Secondly it says that when you take a look at what the plans for the acquisition or merger are, and you specifically take a look at what the plan for the employees of that company are, that you consider that there be no adverse impact to safety, that there would be reliability within the areas as well, and that the quality of the service wouldn't diminish. It gives lots of flexibility in regards to how that employment force would be designated, how many there would be and what their functions would be. It simply requires the Public Utilities Commission to take a look at that.

Why is this important? Once again I bring you back to the fact that we're in totally uncharted waters here. In the old days when a regulated utility would be purchased or merged with another company we were talking about a utility that was a landline company and they had lines that went to your home and provided telephone service and you had a phone in your home, on your wall, and their responsibility was to make sure that system worked well, that you received the phone calls when they came and that you were able to make them when you wanted to make them. It was a monopoly situation, primarily, so that you had some confidence in the revenues that you were receiving and that you could spread out the cost from the profitable, highly densely populated areas to help, frankly, subsidize the rural areas, which are more expensive to serve and the monthly phone bill, quite frankly, didn't really cover the cost to serve you, with the notion that the deal was that if you wanted a monopoly you had to serve everybody and, just like we do with electricity, we spread the costs out to all of the folks who are paying the bills. We now live in a world where you don't have a strict monopoly any more. Telecommunications is competitive and the previous Legislative session it was deregulated except for the provider of last resort, known as POLR. Therefore, a company now must compete on the open market for the revenues and their customers. What is happening is that that's a much more different world and a much more difficult world to run a profitable company. Often times what happens is that when there's an acquisition or a merger that when that is being reviewed at the Public Utilities Commission it really isn't the commissioners who ultimately sit and make the decision based on all of the information they receive. It's almost always decided by stipulated agreements. That is, all of the interested parties, customers, consumers, industrial folks, public advocates, and all the others who are entered into this arrangement to make sure that whomever purchases or merges with the company can run it properly and meet the requirements. That negotiated outcome is usually than what is stipulated in the Public Utilities Commission. Generally as reviewing it, it seems to be reasonable, they agree with it, not unlike what happens in many of our committees where we ask parties if they would try to find some common ground and come back to the committee to see if there is a consensus position on a particular bill. What's important here is that we change the standard from do no harm to

net benefit. That's important because we need a new kind of operator. We need somebody who can run a company in both in a competitive world, trying to get customers, competing on price and quality and service, and a company that still has to maintain the system that is used by nearly all telecommunications users so that system is reliable, up to date, and has good service so it's competitive across the country for the quality of service so businesses will move here. By changing that standard it allows folks like the public advocate to negotiate a better deal and to make sure that we have the right kind of buyer for the company that can handle this new universe that we have not been into before. We think it's important to do that and we think it's also important that we take a look, that we ask them to look, at the employment schedule to make sure that whatever their recommendation is that they have the right kind of employees doing the right kinds of things so that there is good quality service and there is reliability in that service and that we have access to the management staff in Maine in that service territory to do this.

I think it's a fair and reasonable request of them and I hope that you will support it.

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

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, it seems that we have a speaking dialogue going on here this morning that may continue for the better part of the day. You just heard that the L.D. 1761 makes a slight change in one particular area. That's really the only area that I'm going to try to center on and chat about a little bit. That slight change is changing the PUCs decision making process that they have used for years, no one could identify how long that might have been but certainly for a great number of years, in how they decide whether a reorganization of one of our public utilities must go through in order to have a yes or no answer. They've always worn a set of glasses that said, "After we've analyzed all of this data we must be able to come to a conclusion that this will do no harm to the people of the state of Maine," which sounds quite logical. This change is not slight. This is dramatic. We're saying to the Public Utilities if you're working with any other telephone company in the state of Maine you have this set of glasses. If you're working dealing with a water or sewer utility, if you're dealing with an electrical utility that's privately owned, you wear that same set of glasses. If you are dealing with a telephone utility with gross state revenues greater than \$50 million than you take those glasses off and you wear this set of glasses in making your determination. If you decide that this reorganization makes all kinds of sense, you've done your homework and you've done all the analytical work that's necessary to come to what you believe is an adequate decision between the three commissioners, and you say, "Gosh, this works, it looks like it's a good financial decision and puts us on track to get things done that we'd like to have," but there is no net affirmative benefit to the public. What do you have to do? You have to say no. It made all kinds of sense but there was no, in this particular reorganization, net affirmative benefit to the consuming public. That doesn't make sense. If it does make sense than why are we only saying you have to put this set of glasses on for this one company? There are states that have changed from a do no harm philosophy to a net affirmative benefit, but it's for everyone. Why would we be saying it's only good for one, not for another? It just makes no sense. We pass

a lot of good legislation. We pass a lot of so-so legislation. We've been known to pass what has turned out to be bad legislation. This is bad legislation. It needs another look to say; what is the state's policy pertaining to how the PUC makes its decision? It not ought to be just based on that one company. That sends a terrible signal to other businesses that would like to come to Maine, that might like to buy into this one company, and say, "Well, gee, we'd better wait a minute. If they don't like the way things got done in that last thing they may change the legislation and if we buy in we may never be able to sell this thing down the road." Bad, bad legislation. I would recommend that you vote against this and look at another amendment. Thank you very much.

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

Senator **CLEVELAND:** Thank you Mr. President. I just want to take a moment to speak to, I think, a point that my good friend, Senator Youngblood, makes, which is; why just for this utility? Why don't we apply it to all? I spoke to it briefly before, but let me emphasize it. The reason is because this is dramatically different than any other utility. Natural gas really doesn't have competition. Electric utilities don't have competition. They are not in an open and free market for the product that they sell where they have to compete for the customers. They simply hook them up when they need the service and they run the facilities. We're going to have some tough decisions to make going down the road. This isn't the end. It's only the beginning. As this all works its way through on how we manage telecommunications networks, not only in our state but in every state in this union, we're going to have to look carefully at how those organizations are managed and operated in this new environment. Because it's so different, because it's changing so rapidly, because there's an entirely new different paradigms in regards to how the business will need to be operated to be successful in this new environment, I think it's appropriate and wise and cautious that we do ask the Public Utilities Commission to use those different glasses when looking at this industry for this large telecommunications system. We cannot afford for that system to collapse, to not be profitable, to not be maintained, to not service the telecommunications needs of this state. It's critically important. I think asking for them to look at it from a slightly higher standard will lead to a better acquisition and a better operation in the long-term, going forward in this new environment. That's why it's different. That's why we're asking for it only in this particular circumstance.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Cleveland to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-772), 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 (#530)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, SAVIELLO, TUTTLE, VALENTINO, VITELLI, 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 **CLEVELAND** of Androscoggin to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**, in concurrence, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-772) **READ** and **ADOPTED**, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later Assigned (3/28/14) matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act Regarding Wind Power Siting in the Unorganized Territory"  
H.P. 947 L.D. 1323

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-601)** (4 members)

Tabled - March 28, 2014, by Senator **CLEVELAND** of Androscoggin

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

(In House, March 26, 2014, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-601)**.)

(In Senate, March 28, 2014, Reports **READ**.)

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

Senator **SAVIELLO**: Thank you Mr. President. Ladies and gentlemen of the Senate, I don't think they're sitting out there, I think they are sitting out there, but just in case that's okay. I'll just speak in opposition to the Ought Not to Pass which is before us. I represent many of the unorganized territories in this state and looking at the sheet that I passed out to you a minute ago, if you look at that, the unorganized small towns had little to say about where this permitting zone was established and where it wasn't. I believe that they should have a voice in the process. One of the things that we worked very hard, and I heard this same speech on 1323, on the LUPC change, the LURC change, those don't know that it was the former Land Use Regulatory Commission. We changed that to give a voice to the people and landowners that are out there. This Ought Not to Pass goes against that. Thank you very much, Mr. President.

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

Senator **CLEVELAND**: Thank you Mr. President. I quickly want to remind members here what this bill does. First, it completely removes from the Wind Act the permitted use of commercial wind power in the one-third of the unorganized territory where it's currently permitted. That means that any commercial wind developer would find that none of those areas would be any longer permitted use and if it was a development that they wanted to do in any of those areas throughout the entire unorganized territory, where it is currently permitted, they would have to petition the Land Use Planning Commission to rezone that particular lot or area where they wanted to do the development. That would have to go through a rezoning process at the Land Use Planning Commission, which could be long, lengthy, and expensive for them to do. If they would have it approved, then they would continue to have the requirements to go through the site planning process at the DEP, which is, again, a long and detailed and comprehensive process to assure it's appropriate to the area and that any impacts are minimized, to go forward. The net effect of passing this particular law would be really to bring commercial wind development to a screeching halt in the state of Maine. Now I know that there are some who are concerned about the process in which the original Wind Act was enacted. I was not here in 2008 when that occurred and many of us weren't thanks to term limits, one of the downsides with that legislation. I think we need to be careful to distinguish between policy and process. The criticisms of the process perhaps have some merit. I wasn't here. I don't know for sure. They are consistent, and they are persistent, in those reviews and I think that is one of the results when the process does not build the confidence of those that have to live with the outcome of the law. That doesn't mean that the policy might not have been the right policy. That is, that commercial wind development, utilizing a major resource in Maine, which is the best area in New England if not the nation for wind power, wind resource, is a good policy for Maine. It may well need, and I have said on this floor and I've said in my committee, a comprehensive review of the Wind Act, and that would be appropriate. After five or six years I think we've learned much. I think we could improve it, but we haven't gotten to that point yet. Simply to throw the entire act out simply because there was some complaints about the process really turns upside down what I think is a useful policy for the state of Maine. Billions of dollars have been invested. Hundreds of jobs have been created. Clean energy is being generated from those resources, a

resource that's here in the state of Maine to be utilized for the benefit of all people in Maine. If we don't produce energy by this means than what means do we want to produce electricity by? Would we like another nuclear power plant? Would we like oil fired plants? Would we like coal fired plants in the state? Our constituents expect, as the slogan goes, that when you flip the switch electricity will be there. As part of a total mix, commercial wind power, I think, has a place and it should be developed and it has to be developed in the areas where the resource exists. That happens to be in many of the unorganized territories. I hope that you would support the Ought Not to Pass Majority Report and not use this single means to undo a major and important policy in the state of Maine.

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

Senator **BURNS**: Thank you Mr. President. Ladies and gentlemen of the Senate, I certainly don't claim to have the knowledge of these bills that my peers on the Utilities Committee, especially Senator Cleveland, but the essence of this bill, to me, is: let me back up. I've heard from a lot of people in my district concerning this and a related bill that we'll deal with in a little while and the essence to me of this that during the, I believe, 123<sup>rd</sup>, when this was adopted, many people's voice in this process was taken away, if you will, those who live in unorganized territories. Their intent is not to stop wind power production in this state. Their intent is to have a say in the process and I think that's a very laudable rational for backing up on this a little bit. I want to assure that that happens. I think everybody, whether you live in an unorganized territory or you live in an organized community, ought to have an opportunity to have a say in the process. I think in essence that has gone by the wayside with the expedited process that's been hoisted on us through the 123<sup>rd</sup> Legislature. I would ask you to vote against the pending motion and give us an opportunity to produce another report that maybe will address those issues. Thank you, Mr. President.

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 Boyle.

Senator **BOYLE**: Thank you Mr. President. Women and men of the Senate, I rise in support of the Ought Not to Pass motion. I've been dealing with zoning, land use planning, and permitting since 1981, some of it in the Land Use Planning Commission areas. Nobody's really touched too much on what went about, how this statewide process works in the unorganized and de-organized townships and plantations and whenever staff from LUPC talk about the process and what they do, their role, they always give a brief description. I haven't heard that today in much detail. The Land Use Planning Commission, the commissioners, themselves, as I think we know, are nominated by the Governor. They are approved by this Body, by the Legislature. They are the zoning and planning board, in a sense, parallel to the municipality. They are the board for the unorganized and de-organized plantations and townships. In this Body we are, in effect, the parallel to the selectmen or the town council with respect to how this is all

administered and what this bill does. Again, like others, I wasn't here in 2008 as part of this and I really respect and appreciate the concerns of the locals. I've attended hundreds, maybe over a thousand, planning board and public hearings and meeting in my career. I'm very sensitive and I understand these kinds of concerns. I just don't think that this sentence in this bill that removes this authority on planned development redistricting is the right approach. I would be supportive of going back and taking a larger look at the issue as a whole.

There are 24 sub-districts. This is just one of them, planned development sub-districts, one of 24 that the Land Use Planning Commission uses. This sentence hones in on that one. There are, in addition to the districts, a whole list of standards. There is no mention in this legislation about all the standards. If an applicant has to go to the DEP, which they do have to for a grid scale, they have to meet. If there is a standard in the LUPC that DEP does not address, the applicant has to meet that standard under LUPC standards. None of that is addressed. I think that's one of the things that concerns me. Also if a community, a small community in an unorganized or de-organized plantation or township, wants to, or if they gather a mass of energy and constituents in a particular region want to, they can undertake prospective zones, such as has been done around Moosehead Lake in the Greenville area. It is a good process. It can be done and I really like that process. I think it moves the state in a good direction for taking a holistic look at our resources that are out there for all citizens. That is another completely separate available process that wouldn't need this sentence to pull land development out.

Also, and finally, another piece of this, for me, is remembering back, that there aren't many people that live in these areas, but they do have rights and we all respect those and that's what a lot of this conversation is about. Those individuals in a plantation or a township have the right to organize and if they were to do so they would have all the rights and responsibilities that come with that and they would be an organized township, a municipality, and that's yet another way that they could approach this. I would be supportive of that as well. There are other options and I just wanted to express that those are reasons why I don't think this particular sentence being inserted to pull planned development to those districts out of 24 sub-districts is the appropriate approach. 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 often don't disagree with my Chair, but today I'm afraid I have to because I want you to picture yourself in your town and someone decides to build a windmill just up the road, next to the power generation plant. You're about 400 feet away. You go to your local planning board in the town of whatever it is, an organized town, and you say, "How can you let them do this?" The answer is, "They took that away from us in the big government down in Augusta and they gave that permission to the DEP only, so you don't have a say here locally. You'll have to go to DEP and have to convince them." I think that that's wrong. Because LURC LUPC is in fact LUPC not LURC anymore it is the planning board for the state. I just want to correct one thing. This does not stop wind. A lot of people say it stops wind. It does not stop wind. If it did than why is it proceeding in the organized towns at a pretty forceful rate right

now? It doesn't stop it. It just makes the people in the area have a voice in the say of what happens around them. Thank you very much, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Cleveland 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 (#531)**

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

**NAYS:** Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, 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 CLEVELAND of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (3/31/14) matter:

SENATE REPORT - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY**, pursuant to Joint Rule 204, on Bill "An Act To Make Changes to the So-called Dig Safe Law" S.P. 638 L.D. 1647

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-471)**

Tabled - March 31, 2014, by Senator **HASKELL** of Cumberland

Pending - **ACCEPTANCE OF REPORT**

(In Senate, March 31, 2014, Report **READ.**)

Report **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-471) **READ and ADOPTED.**

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

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (4/1/14) matter:

SENATE REPORT - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Support Solar Energy Development in Maine"

S.P. 644 L.D. 1652

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-473)**

Tabled - April 1, 2014, by Senator **HASKELL** of Cumberland

Pending - **ACCEPTANCE OF REPORT**

(In Senate, April 1, 2014, Report **READ**.)

Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-473) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (4/1/14) 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

Majority - **Ought to Pass as Amended by Committee Amendment "C" (H-638)** (8 members)

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

Tabled - April 1, 2014, by Senator **CLEVELAND** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, March 31, 2014, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-638)**.)

(In Senate, April 1, 2014, Reports **READ**.)

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

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

Senator **CLEVELAND:** Thank you Mr. President. This is a bill that we heard last year and was carried over again to this session. We held lengthy public hearings last year and we held, again, lengthy public hearings, five hours and six hours long, and we made sure to hear from every person who came to testify on this bill because we knew that that was important, that they have an opportunity to be heard, to have their concerns aired and fairly considered. Virtually everyone who came to speak on the bill was good citizens; sincere, honest people who wanted to have their concerns heard before us, which we did. This is probably one of the bills that I anguished over the most, trying to decide the balance between a good public policy and the concerns of many of our good citizens who came before us, and where the right balance existed on this particular matter. Ultimately, I came to the conclusion that it would be best for the citizens of Maine, overall, not to proceed with this bill. That doesn't mean I didn't recognize the concerns. It doesn't mean I don't appreciate the concerns that those folks had when they came. They had a right, and I understand why they would have concerns as commercial wind energy is developed in some of the unorganized territories, but ultimately I needed to decide on what was the best policy for everybody in the state, even though I know that there are some citizens in this state who wouldn't share that view.

What this bill does is provide for a 2-year period in which residents in unorganized territories can petition the Land Use Planning Commission to have the Land Use Planning Commission consider their removal from the permitted area for commercial wind development. In practicality, some folks will organize and submit their petitions early, but, as is human nature, I am sure that there will be some areas that will wait towards the end and submit their permit request, their petition request, near the end. In actuality what will occur is a much longer period than 2 years because once you've submitted your request no further commercial development will occur until your petition is reviewed and acted on by the Land Use Planning Commission, and I'm sure they'll have quite a stack of them, quite a few to proceed through a process, township by township, to review.

The public policy, I think, here that we need to consider is, what is the place of this natural resource, this commercial wind, the strength of the power of the wind, as a natural resource for all of the people of Maine? Perhaps you might want to think about this natural resource as the wind being rivers in the air, much like the rivers on the land, where the wind blows strong and well and persistent for long enough periods that it's a resource that can be used to generate electricity, not unlike many of our rivers which have the strength and flow to generate electricity through damming those rivers. What we've done in making a policy is to say that if those resources benefit the entire state, all of its citizens, then the policy should be set on a statewide basis on how those resources could be best used. If you could think for a moment that if every town and township or city that bordered a river had a policy on which they had to review and set standards in regards to whether or not the river could be dammed, water backed up, some impact occurring along many townships and cities, it would be an extraordinarily difficult policy



to use that resource to the benefit of all the people of Maine. What we would be saying is that individual cities or towns, organized or otherwise, would be the ones who would individually set the policy in regards to how it benefits the entire state of Maine. This is not the only area where we've identified that there are natural resources that there needs to be a statewide policy on. We don't have great ponds regulated solely by individual communities, but we have a state policy in the regulation of zoning around our great ponds. When we need to build highways for transportation we have a process, but it's a statewide process by which decisions are made that that highway transportation system benefits the state and is a process by which the rules require that that highway can be built after due process and reasonable compensation, not a policy by which individual towns say a major interstate highway can't come through this area at all under any circumstances. Wind is that kind of a resource. It exists in specific areas of the state, primarily in unorganized territories and along the coast. That's where the resource needs to be used effectively and why we should have an overall state policy in regards to how that resource can be used and what process it goes through in regards to the siting and permitting for its use.

I might remind you that we, just last year, heard concerns of many of the folks who had commercial wind power development occurring in their areas and we passed L.D. 385. In that bill what we did was recognize that there ought to be public comment, that local folks ought to have input, that we required there be an accessible public comment process for ordinary citizens, that there be public hearings, that those public hearings be held in areas where the project was being considered, and we further said that those folks who wanted to be official interveners in a process at the Department of Environmental Protection that we set a fairly minimal bar, pretty low, that they can gain intervener status. We've tried to speak to the issues about having local voices be heard. Again, this issue suffers from the view on some that the process, when it was enacted, wasn't as open and transparent as they believe it should have been. I wasn't here. I can't undo that history. I live with it and suffer with it, but I still have to balance public policy versus that perception. I'm more than open to reviewing, in a comprehensive way, the Wind Act in Maine as we go forward.

There is also the feeling that some rights were taken away from folks in the unorganized territory, and I can appreciate why they feel that may have been the case. Unfortunately, I think, that because of the way unorganized territories are governed, that's not exactly accurate. Unorganized territories depend on the State of Maine to do their basic local services based on population and tax value resources. It is not a function that they can economically undertake easily. The state acts as the town manager, administrative department, to make sure that roads are available, roads are maintained, taxes are raised, solid waste is disposed of, there's a good place for the kids to go to school, public safety is taken care of, and fire protection is provided. It doesn't have any input from any of the residents. It happens here. Last week we passed that budget, raised their taxes, to provide those services for them. We, as their legislators, are their town council, their town meeting. We have always made policy decisions for that area of the state simply because that's the nature of that area being lightly populated. Even in land use matters, unlike organized areas where local planning boards undertake comprehensive planning and zoning within their areas, the Land Use Planning Commission responds to individual

requests for development and, on those individual requests, make decisions. There has not been an overall zoning process that individuals within the townships would have a comprehensive planning or zoning process that they would participate in other than individual projects that may come before them. My concern with this process is that the end result will be that decisions will ultimately be made individual township by township on a statewide policy, just like if we passed individual towns along the river way that make individual policy about how that resource should be used and developed. I think it's important, as a state policy, that we have a statewide process on how that resource is developed, how it takes into consideration and hears from those residents within that area, but that the policy be consistent, well organized, and thorough in its review. I think that works best for all of the citizens of Maine and I think it protects an important natural resource, both for the use and benefit of the people of Maine but also in a rigorous process in which concerns of individuals can be heard and addressed through that process. I urge you to support the Ought Not to Pass Report.

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

Senator **BURNS:** Thank you Mr. President. Men and women of the Senate, I appreciate a lot of the comments that have been made and the analysis that has been used on this bill, especially the one about the rights of the many. I've met with an awful lot of my friends and neighbors, as probably you have to either met with them or heard from them, who just happened to live in unorganized territories. They appreciate, I think, that concept that often, especially these Bodies here in Augusta, have to make a decision on what is best for the majority of Maine citizens. I don't think they disagree with that concept. However, in doing so I don't think they are willing to give up their rights, the same rights that their neighbors have a quarter of a mile across a town line where those people have a say, a voice, an opportunity to express themselves about a major development that's going to happen in their backyard. I think when we do that we're really getting into dangerous territory when we start saying the rights of the many outweigh the rights of the few just because of where they live in this state. Think of that analogy about the river. It has some value. Think of if you happen to live in an area that many of these people live in, an unorganized territory or township, and it was decided that there was going to be a dam project there and flood hundreds of acres in your backyard. Wouldn't you want to have a say in that? Wouldn't you want to have an opportunity to express your concerns? Wouldn't you want your voice to be heard? The way the law is right now, as I understand it, that's not the case. If you live in an unorganized territory the DEP licensing process is only concerned with whether or not an applicant's project satisfies the licensing criteria. The opinions, concerns, and wishes of the community residents and property owners are not among those licensing issues. Consequently, we have taken away the rights for our citizen's voices to be heard on these very, very important issues that happen in their communities. They are communities. Some of them are very small. As I heard this morning, some of them may be as few as five or six people. Others are populated very similar to a lot of our smaller towns. We really shouldn't be thinking about the number of people. We should be thinking about the rights of the individuals and I'm very, very concerned with what has happened in the permitting process, that we have stifled those rights and those citizen's

opportunities to have their voices heard about major, major events that take place in their backyard.

As I said a few minutes ago, the people that I met with are not against wind farm developments and wind power developments for the most part. In fact, I would say that most of them that I met with, Mr. President, are very supportive of that. They just want to have a say in how those come about. For us, who really are the Body of the last resort here, to tell them, "No, you can't because you happen to live in an unorganized territory," I think is wrong. I don't think we have the moral right to do that. I think we at least need to give them the opportunity to voice their opinion and voice it in a public forum in their community through the Land Use Planning Commission board and then what will happen will happen after that. At least we've given them that right that every citizen should enjoy. I just ask you to consider once again; why would we want to deny somebody the same rights that we enjoy? I happen to live in an organized town. The same rights that I enjoy in my town denied to somebody who lives a couple of miles up the road in an unorganized town. I don't think we really want to do that. I will urge you to turn down this report and then consider the Majority Report, which has much more merit, I believe. 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, hello again. We've seen lots of paperwork on this issue. We've heard lots of discussion of this issue. We just heard that we need a statewide policy. What we have is not a statewide policy. We, as a Legislature, didn't say all of the UTs are going to be expedited areas. We picked, here and there across the state, and said, "This one, this one, this one, and this one are going to be expedited." How can we consider that to be a statewide policy? If you don't vote to turn down the motion that we presently have on the floor I guess I'd have to say it won't be your fault, it'll be my fault for not being able to find the right words to touch your heart to say how important this is to not thousands of people but people that are just as important as you and I are. We're back here considering a bill about the rights of citizens. Not about wind power. There are wind developments going on around this state right now. I was in Oakfield just a couple of weeks ago, when I had a free weekend to do a little snowmobiling. They are building roads on the ridges around Oakfield to build a 150 megawatts wind farm. It's not in an expedited area, but it's there. It's growing. It will produce wind for us. Those things will continue to happen both in expedited and in unexpedited areas around this state. It won't create a moratorium. There's nothing in it that says you can't do anything for a 2-year period. We sent this bill back to the Energy Committee last year over some concerns that we needed to be sure we got it right. Well, as a member of the Energy Committee, I hope I'm here today to tell you that we got it right. The bill has come to us twice with a Majority Ought to Pass Report from the Energy Committee. The other Chamber has passed it twice with strong support. All that's left now for us to do is do our job and make sure, above all else, that fairness and justice applies to all the citizens of Maine, even though they aren't our constituents. How can anyone in this room possibly deny those things to our fellow neighbors, especially when each one of us takes them all for granted? We take for granted the very things these Mainers lost in a bill passed in this room almost six years ago. That's

when they lost the right to have some meaningful say in what goes on around them. They lost that right to tell their families that we grew up in the greatest country in the world, the United States, and you are lucky to have been here because it's unbelievable the rights that we have. Six years ago we took some of those away. Who in this room is prepared to give that up? Who in this room would be willing to take away from their own constituents and neighbors? If you lost that right unfairly, what would you want people in this room to do? The fact is most of our predecessors in 2008, maybe some of you were here, probably never knew anything would happen when they pushed the button. It's one of those unintended consequences. A former Representative of the 123<sup>rd</sup> came to us and testified before our committee in support of the bill. He used these very words, unintended consequences. They just didn't know. It's the kind of thing that can happen to the business in front of us. It gets compressed in those final days of a session. That's what happened in 2008 and it's our job to make it right.

The unorganized territories, a place that a lot of us probably are not very familiar with, a place some of us don't know an awful lot about, there are people who live there, who work there, and who raise their families there. Up until 2008 they had a choice in any big changes that were proposed there, just like each of us does. It's not the same process that you and I have in our towns, but it was their process. It worked fine for decades. In fact, the process still exists today for every other type of large industrial development, except that in 2008 the Legislature took away those citizens' only way to have any real input to large wind projects. We can't be saying that that's the way UTs work. It works for their benefit. It works and it's worked and it's worked and it's worked. It's worked for everything except what they were expedited for.

Last year when I spoke in support of this bill I mentioned a bird. We passed a bill to protect the little bird, and that's a good thing. We saw fit to protect this bird through legislation. We put its habitat off limits for wind development and we didn't even worry about how the impact might impact the future of wind power. For some reason, when we talk about protecting a few citizens' rights, it turns into a controversy. Some people start looking for reasons to justify taking these people's rights away. There's something wrong with this whole thing. I like birds. I like sensibility. I like clean energy, but I have a deep respect for the rights of our citizens and I think we all should. It's my duty as a Senator to make sure that our citizen's rights are at least worth as much as those of that little bird. Please join me today and let's right a wrong. Let's do what the Legislature is supposed to do, fix an honest mistake by those who came before us and let's hope that who follow us will have the wisdom and the dedication to fix our mistakes, and I'm sure we will make some. Unintended consequences, if there are any, especially if it's found that it deprives our citizens of any of their rights or treats them unfairly. This is a good bill. It's the right bill to address the problem. Anything other than an up or down vote should be seen as a pathway to killing it. This has been kicked down the road long enough. The longer we put it off the harder it is to fix and the more unfair to everyone involved. We've worked extensively twice in the Energy Committee. The pending version is a good compromise, a stronger bill than last year. Last year we were asking to take some towns out of the expedited area. All we're asking for this year is a process where they petition to say, "How do I get out?" It doesn't mean they'll get out. It says in there that the consideration has to be given to the state's energy policy and its effect on it. It gives them an opportunity and that's all it's

asking for. It's time to return fairness to a group of Maine citizens and we say truly that we did our job and we did the most important thing we can do as a Legislature, we made sure that just treatment of all our citizens prevailed and was deserved. 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, two points I want to make, and I thank the good Senator for his speech because I'm looking at L.D. 385 and I suggest you all look at it because it does, in fact, protect the Bicknell's Thrush, but I would also point out it protects bats also. It doesn't say much about the people.

Two points, one point I've already made about L.D. 385. It does not take zoning into consideration at all. It's already the permits in place. You can appeal the permit or you can be part of the permit process, but the zone has already taken place. The second point, I just want to clarify with all of you, towns can, in fact, create their own ordinance on wind. Many of my towns have done that. They put a moratorium first. They sit down together. They figure out what they want to say and they can be more restrictive than the state in that particular issue. The unorganized territories, landowners and people that live there, cannot do that. Thank you very much, 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 before you today in opposition to the motion that we have before us. I will be brief. The people of the townships, plantations, and municipalities in the northern parts of our state have been dealt an injustice by the current law that refers to the expedited permitting areas. L.D. 616 will correct this injustice and give the people of these communities a chance to be heard. There is not one of us in this Chamber that wouldn't feel that our rights had been compromised if the community we live in was under the same restrictive law. It has been said that those who live in the expedited areas chose to do so. This is true. However, they chose to do so long before their communities were designated as an expedited area. It is our duty as legislators to give back to the citizens of our northern communities their right to be heard. Mr. President, to do otherwise would give way to the saying two wrongs never make a right. Thank you.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, it's interesting to hear a lot about fairness and conversations like that because most of the areas that I represent are in LUPC territory and continue to argue about that today. They don't feel that they have a fair process. As a matter of fact, the town that I represent, before it was an organized plantation, was an unorganized. It's the largest town in the state of Maine, area-wise. Because of Massachusetts wanting to have people move to these more remote areas, they set up a system where they had land in each one of these townships where they had school blocks and things like that.

Because Allagash was four townships, we actually had four school blocks in our town. Whenever we were controlled by LURC all of a sudden they decided that all these townships, all these school blocks, should be taken back by the state and Allagash lost all four of their school blocks because they were not organized at the time in what was then known as LURC. Now the state controls what should be in reality our school blocks and we don't have any control over that. Most of the people that I know in my area of the state don't have much trust in the LUPC or LURC and I think that, with this opportunity here, most of the people that I know would actually say that they would rather take their chances with DEP. That's what this law actually does. They didn't lose their right to go before DEP or anything like that. The idea that there's an unfairness, or no process, or anything like that, there absolutely isn't. People can organize. Allagash is considered a low property tax town right now. It's organized. Now we make our own decisions. That process, like Senator Boyle explained on a previous bill, is still available for anyone of these places and then you make your decisions on what you want with wind. It's funny to hear a lot of the conversations that I've heard here today because many times before people were talking about how bad LURC was, and not going into LURC, and we need to have a different process for LURC. I agree 100%. Most of the time I don't agree with the LURC process, so to argue to go back to that doesn't seem to make a lot of sense, and I think that, like I said, I'd much rather take my chance with DEP. I've already seen what LURC will do, not only for wind but for mining, for logging. I'm very comfortable with what we have now.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen, I won't belabor this much, but this is about fairness. That's the bottom line. This is about fairness today and, as I said before, we are the Body that gets to decide what is fair and what isn't for our friends and neighbors. It's been said that the residents of these towns, if they want to, can organize. I'm not sure that's entirely fair. I'll just read quickly to you what Title 12 Maine Revised Statutes Annotated says, "The Legislature finds that it is desirable to extend principles of sound planning, zoning, and development to the unorganized and deorganized townships of the state to honor the rights and participation of residents and property owners in the unorganized and deorganized areas." That's something this Body granted to those people, as well as the rest of the citizens of this state. This is about fairness. They're asking for an opportunity to come together and, if the majority wished to get out of the expedited area, be allowed to do so and enjoy the exact same privileges that most every one of us in this Chamber enjoys today. Please let's consider this a fairness issue. Thank you, Mr. President.

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

Senator **BOYLE:** Thank you Mr. President. Men and women of the Senate, I rise in support of the Ought Not to Pass motion. I've heard it said, while I wasn't here, like I said, for the actions of the previous Legislature, that this Wind Energy Act and the expedited permitting doesn't address statewide. I think it addresses statewide in the sense of where the wind is, where the energy is to be captured. Looking at this bill, it pulls out three townships

and two plantations. That's all. That's not statewide. That's much less statewide than what was done in the Wind Energy Act. Again, if I'm fortunate enough to be standing here again, I'd be happy to be part of a process if we take it up again and look more broadly. This is pulling out three townships and two plantations. I'm a big supporter of individual rights and I think individuals do have rights. When I talked about getting organized that was just one of, I think, three ways that I described that people can do with these issues. I was looking up L.D. 385, the public law that went into place that we've been talking about. The Bicknell's Thrush and etcetera. That law, as I read it right here on my computer, does allow, if five people, five or more interested persons, request in writing that the Commissioner hold a public hearing, a hearing must be held as follows. It spells out exactly, in great detail, how that is to be done. Further, if two or more interested parties qualify as interveners, request an adjudicatory hearing that has to be done. That's five people and then down to two. That's individual rights. That's within the very lengthy detail DEP permitting process. I think I understand the concerns that LUPC is zoning and that some communities have only a few individuals, but the people that I've heard from, both in the building and by e-mail, there are some pretty adamant citizens who want to have their say and I believe that L.D. 385's language certainly allows for that.

Separately but connected is, what if the issue of the day is grid scale wind, but what if the issue of the day is some other forestry matter or some other wetland matter or some other matter that a group of citizens in the unorganized or deorganized areas take up? Are we going to have a bill that pulls out three or four townships from those kinds of standards under LUPC? It's conceivable because that's what this process would allow. It's just the issue of the day and I think for those reasons I'm in support of the Ought Not to Pass. Thank you, Mr. President.

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

Senator **YOUNGBLOOD:** Thank you Mr. President, for allowing me to speak again. I'd just like to reiterate what this bill does. It doesn't involve two UTs, three UTs, four unorganized territories. All the present bill does, amended from a year ago, is require that LUPC put together substantive rules that say if you are a UT that is in an expedited area anywhere in this state, wherever you may be, and there are forty some of them, if you wish to try to get out of here this is how you do it. We have an in-statute procedure for how one can request to get into an expedited area. There is nothing in statute that says if you choose to get out, it doesn't mean you're going to get out, it doesn't mean you're going to be successful, it doesn't mean that when you go through that process they say, "No, in your area that state energy policy trumps what you'd like to do and we're sorry, we aren't going to let you out." It gives them a chance to do that. That's all we're talking about; not saying three can get out, not saying any of these other things. You have an in-statute procedure of, if you choose, this is what you have to do. Thank you very much.

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

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, two points. First, L.D. 385, you're absolutely right. It does give a process, a public process,

however it's already zoned for wind power. You're fighting not the zoning but fighting the permit. I just want to challenge all of you that come back next session, I'm glad you will all be willing to support my bill to expedite wind power permitting throughout the state of Maine to negate all town ordinances. I'll be looking forward to all your signatures.

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

Senator **SHERMAN:** Thank you Mr. President. I was part of the process by which the county commissioners in the 10 million acres was changed as to its purpose. Those of us on Agriculture nominate county commissioners for a board that really is the town manager, so to speak, of that 10 million acres. This issue of the wind is already there. I think that's, in some sense, grandfathered. One of the things we ask the Land Use Planning, some of you call it LUPC, they were asked and given the power, county commissioners and some public members on there, to do perspective zoning. Perspective zoning says you'll put this here, you'll put it there, you'll put it someplace else, do what you want in development in the unorganized territory. There is a process for doing that. Some counties have picked that up. I know Aroostook County started it, but they've loaded up with so many people I'm not sure what they're going to get done. If you want, the 10 million acres is really a general purpose kind of acreage. If you want to do something there you have to change what it is being used for. That was the hang up. We listened to people all over the state. I can't remember how many meetings we had and people came and testified. They had the chance on wind power and I'm rather concerned that we go back and someone's put money there. I don't think they like windmills. Someone's put money there on that certain piece. Let's go forward with that. What is missing? What you should take back and talk to your county commissioners about. See who's on that board. What are you supposed to be doing? The idea was, again, look at where you want, where you would like, to have some kind of development in your portion of the Aroostook County, Oxford County, Penobscot County. Those are your friends and neighbors on there and those of us on Agriculture, people are nominated, we okayed those folks, we quizzed them about this whole process. To me, I haven't heard anything about that piece, as to what we intended to do and tried to do. Both Democrats and Republicans, that was a compromise we put together, so I'm in favor of leaving this alone for a period of time. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Cleveland to Accept the Minority 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 (#532)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, CUSHING, FLOOD, GERZOFSKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, MAZUREK, MILLETT, SHERMAN, TUTTLE, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

**NAYS:** Senators: BURNS, COLLINS, DUTREMBLE, HAMPER, LANGLEY, MASON, PATRICK, PLUMMER, SAVIELLO, THIBODEAU, THOMAS, VALENTINO, WHITTEMORE, YOUNGBLOOD

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator CLEVELAND of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

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

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later Assigned (4/2/14) matter:

**SENATE REPORTS** - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Expand Affordable Heating Investments with Maine's Public Resources" (**EMERGENCY**)

S.P. 741 L.D. 1838

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-480)** (3 members)

Tabled - April 2, 2014, by Senator **HASKELL** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 2, 2014, Reports **READ.**)

Senator **VITELLI** of Sagadahoc moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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 Vitelli.

Senator **VITELLI:** Thank you Mr. President. Men and women of the Senate, this bill, An Act to Expand Affordable Heating Investments with Maine's Public Resources," intended to take over \$1 million from the sale of timber from public lands to put to the Efficiency Maine Trust in order to provide affordable heating for Maine citizens. There is no question that we have had a real winter this year and that raised legitimate concerns about those who struggled to stay warm in their homes. We heard much concern about these real needs, that this bill was attempting to address. An amendment was even offered in order to better target these funds within Efficiency Maine to individuals who are eligible for LIHEAP assistance. We agreed that the intent was worthy of reducing costs and efficiencies by promoting the use of heat pumps, for example, and wood pellet burners. However, there was very little, if any, consensus about the funding source that was being proposed to do this. In fact, the proposal to use revenues from the sale of timber from the harvest on public lands raised serious concerns. The Agriculture, Conservation and Forestry Committee had already addressed some of these concerns in a letter to the Bureau of Parks and Lands in response to their annual report. Some of the same concerns are pertinent to this bill. First, the proposal to increase harvest levels to 160,000 cords in SF 2015 and then to 180,000 cords in 2016 and then to continue harvesting in increasing levels over the next 20 years we felt lacked scientific basis. The existing law requires that Bureau of Parks and Lands produce, "a sustained yield of products and services in accordance with both prudent and fair business practices and the principles of sound planning." We felt this proposal might jeopardize that. In addition, there were unmet needs within the Public Lands themselves for maintaining roads, boundaries, and other issues that also might go unaddressed if these funds were taken from them. It should be noted that the Public Lands are self-funded by the revenue that they generate from harvesting timber. They receive no funding from other sources. Finally, and perhaps most importantly, there were constitutional questions about taking funds from the Public Lands Trust for other purposes. In fact, a statement previously looking at this issue says that most of the public reserve lands were conveyed to the State of Maine through the articles of separation when Maine and Massachusetts separated back in 1820 when Maine became a state. Further, a memo from the Department of Attorney General, I'm quoting now from the letter the committee sent to the Bureau of Parks and Lands that is dated August 5, 1992, states, "The Legislature, acting on behalf of the people of the state of Maine, has some degree of latitude, subject to judicial review, to actively manage its trust responsibilities over these lands provided that it does so in a manner which is consistent with the trust purposes." The goal of helping Maine people reduce the cost of heating is very laudable and, in fact, we think it will be partially met through a bill we already passed, L.D. 1252. This is not the right vehicle to meet that goal and I request that you support the Majority Ought Not to Pass Report. 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 pending motion. I think there are many factors that we should consider here in addition to the fact that the Chief Executive presented this bill to use the resources of the state of Maine for the benefit of its people. We have some information that has been presented,

which I think was perhaps presented to the good Senator from Sagadahoc in error. There is already case precedence for this. The law court has already determined that the revenues from this can be used for the public good, not just in the narrow context of what the Constitution originally called for. So there is precedence for that. Secondly, paper mills, logging contractors, and many people who produce things like wood pellets would benefit greatly from having the opportunity to take wood that now resides on public lands, which we should remember, although we respect nature greatly in this state, it is a crop and it reaches a lifespan at which it is going to degrade in value. I'm not taking that to deny Maine workers jobs in the forest industry. In this difficult heating season it becomes helpful to those who would be heating their homes either directly with wood or perhaps with the byproducts of pellets. It also affects our major employers in the mills because they are, at this time of year, Mr. President, desperately seeking wood in some areas to supply their yards during what we affectionately call mud season. With the icy winter we had, and I speak for this personally having some involvement in the forest products industry, there is a definite need for species of wood out there and, as the economy rebounds, Maine benefits two-fold. We benefit from the revenue that comes from harvesting this crop and we benefit from the fact that jobs are created that create taxable income for the large appetite that we sometimes have here in legislative programs. I would ask my colleagues to think long and hard about this. Are we saying to the citizens of Maine that the resources you have, which are approximately 400,000 acres of public land, not to forget that there's at least 200,000 of protected environmental lands that might have old growth or legacy trees or some other natural resource that we value, that are already managed effectively by the Bureau of Public Lands. This bill, Mr. President, would clearly be a sign to people in the forest industry that we care about them and I ask you to follow my light and vote red. Thank you.

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

**Senator CLEVELAND:** Thank you Mr. President. Women and men of the Senate, this is an issue that we've discussed at some length in the Energy, Utilities and Technology Committee. We've discussed it more from the perspective of the benefit of the revenue that would be derived from the cutting of additional wood, that is it would go into the Efficiency Maine Trust to be used primarily for low income individuals to help them lower their energy costs by acquiring high efficiency heat pumps. We, of course, would welcome that kind of revenue and there certainly is a need for additional assistance in that area. However, I understand that there are some questions, both from the Constitutional perspective and some concern in regards to the polices of sustainable forestry, areas which I don't spend a lot of time in but I appreciate. I didn't want to leave you with the idea that we're not doing anything in regards to trying to help folks reduce their home energy costs. First, as you know, in the energy bill that we passed last year, we specifically, for the first time, set up funding through Efficiency Maine to assist homeowners to purchase more efficient heating systems. As it happens in the first year, some \$7 million have been allocated specifically for that purpose. Ongoing, though the revenue will be somewhat less in future years, there will still be an ongoing program that has been funded. In fact, the program has shown great success just in this first year. Before funding was available

approximately 380 high efficiency heat pumps were installed. Efficiency Maine, just in this winter, has installed some 1,900. It's a good start, not as much as we would like, but we have provided funding and a mechanism to assist homeowners with upgrading their heating systems, getting a more efficient system, and lowering their heating costs. I just wanted to make sure that it was clear that we were making some good progress on that front as we move ahead.

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

**Senator SAVIELLO:** Thank you Mr. President. This is more times than I've stood up in the whole time that I've been down in the Senate. Ladies and gentlemen of the Senate, let me address a few things. First of all, I had a superintendent in SAD 58 that one time talked about the opportunity for us to use our wood resources to heat the schools. As he put it, he called us the Saudi Arabia of the wood basket. We can cut the wood. Transport the wood. Manufacture the wood. In his case, keep the school warm. We have that opportunity with this asset that we have out there that I believe can maintain the cut that's been suggested. I won't get into that because that gets into the weeds of forestry and I'm sure my good friend Senator Boyle and I will debate that forever. It still maintains the base line of funding for the trails and other things in the recreation area. This is money that's up and beyond from the extra cut that gets the forest prepared for the Spruce Bud Worm attack that's coming. Natural areas and old growth, I've heard that story too. Keep in mind that as these woods are harvested they are, in fact, operated in and those areas that are found and located are set aside. I do understand the Constitution does say something about the ministry and schools can get this extra money. Let me point out to you, my community, it's the ministry that is administering these funds for the people that need to be kept warm. Any money that's available to them, they can tap into to help those homes get there. What I would say to you is it meets the Constitutional test. Finally, if I go to rural Maine where wood probably is our choice; natural gas, as much as we worked hard to get it into the Farmington area, we'll get there, but it will not get to the towns of Avon, Phillips, Strong, New Vineyard. Their choice will be pellets, wood of some kind. I asked them, "Would you rather be warm or build additional trails?" I think you know the answer to that question. Thank you very much, 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 wanted to rise and tell you why I'm voting against this bill today, knowing just a little bit about logging. First off I'm hearing a lot of talk about how some people might want to take a couple of million dollars out of the Efficiency Maine Trust. I don't understand really what the wisdom is of taking some money out and then putting \$1 million back in. That would be certainly something that would seem to hurt the argument that we're trying to do everything we can to help people in the state with their heating costs. I would hope that anyone that's supporting this bill is not asking to take any money out of the current Efficiency Maine Trust Fund. Secondly, I could certainly understand cutting more wood on the state lands. I think we just increased the harvest, so I'm a little concerned that what is the

science of it. The state lands are, in my opinion, something that you really should look at as far as how logging has done well. Not to say that it couldn't be, but I don't know the goals that are asked for in this bill, when you look at how we just increased it, makes sense. That's something that certainly concerns me. There was some talk about, you know, what a great thing it would be for Maine economy. Well, I've reached out and had conversations about this bill, about, okay if that's the case as far as the Maine economy. Why don't we make sure that the wood that we're going to be cutting off of this land goes to Maine mills? No one wants to talk about that. If you can't send it to Maine mills why don't we make sure that, because it is a Maine treasure, something that's paid for by the people in the state of Maine, why don't we make sure that Maine workers are doing the job in there? No one wants to talk about that, even though I think in one of the bills that we've seen now, the open for business bills, actually has a preference for Maine workers in that. When you talk to people in the Administration they don't want to make sure that Maine workers are working on these lands. I'm a little struck with how there doesn't seem to be any consistency here. I'm certainly wanting to make that argument that don't get up and tell me how great it is for Maine workers whenever in the past many people in this Chamber has made sure that we're not doing everything we can to protect Maine workers on these lands. If you want to put an amendment on to do that, than I would certainly be more interested in discussing the bill.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, never in my memory have Maine people spent more to stay warm than they have this winter, and probably never more in my lifetime. Oil prices are high and it's been cold and it's been cold for a long time. To harvest timber that's going to waste to help people heat their homes, to me, is just the ultimate in common sense. It's what we ought to do. We've had a cold winter this year and oil's been expensive. Is there any reason to think that it's going to be cheaper next year? That it's going to be warmer next year? That it's going to be easier to heat their homes next year? We don't know, but the likelihood is that it will be a hard, cold winter again next year. The poor people that we see every day, or every time we go out going door-to-door, need some help. It's been tough this year. For me, number one, this bill will improve the health of the forest because we're not cutting the wood that we should be cutting and a lot of that wood is standing there and it's going backwards. If you don't cut a tree when it's at its prime it's like the garden, if you don't harvest the tomatoes when they're ripe they get rotten and they go to waste. We've got timber on state land that's going backwards. The quality is going downhill because we're not cutting enough of it. It's going to put people to work. It takes people to cut wood. Those trees don't fall down and grow trees and march to the mills by themselves. You have to cut them down, get them out of the woods, put them on a truck, and haul them to the mill. That takes people and it's going to create jobs. The mills desperately need the wood. Finally, to help poor people heat their homes. Why wouldn't we want to do that? Why wouldn't we think of anything else? Thank you.

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

Senator **BOYLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wasn't going to rise either but since the offer was made, and now the Senator from Franklin's not here, maybe the other foresters listening, he may jump up next. I'm not a lawyer so I'm not going to talk about the Constitutional question. I'm not a member of Efficiency Maine Trust Board. I won't talk much about that except to say I do want low income residents in Maine to have assistance with their heat, just like all of us do in this Body. In fact, the bill that I put in on energy efficiency in the previous session had a provision for that. That bill was ultimately rolled into, in some fashion, in the omnibus energy bill, so I won't talk about that. There's been a lot of talk, and I was on this committee, I'm a licensed forester, I'm on the Agriculture, Conservation and Forestry Committee, so I have a lot of questions for the Bureau of Parks and Lands and others on this issue. As I recall, I didn't bring my notes with me, but as I recall just recently, within the last two or three years, we were cutting about 100,000 acres, or cords, per year on our 400,000 acres. It's now about 120,000 cords per year and the proposal is to go up to 160,000 and then following that to 180,000 cords a year; nearly doubling the harvest in a span of maybe five or six years, something like that. That's a lot but I can tell you as a forester it may be that we could do that. I may even support that when we get more information. That information, scientifically justifying that, was not brought to me, at least, in a form that I was comfortable with. I think that the policy really focused on changing stocking levels from the current 23 cords per acre to 21.5 cords per acre, yielding that roughly million plus dollars. I support utilizing the people's resources as has been described. If it's \$1 million, and we can harvest more, we can sustain that, I believe as a forester that we probably could, but we heard testimony from the foresters on the staff at the Bureau of Parks and Lands that, in fact, some of the parcels that the state has taken in over the past several years were very heavily cut over when the state took them and the state Parks and Lands Bureau has been doing a good job managing them and they are actually increasing the timber value and health of those stands that we now own as citizens of the state. I want to continue to support that process and, in fact, that's part of the reason we have higher stocking levels in our forests, because Parks and Lands has been doing a good job of management. As a forester, it's not accurate to say that just because trees are older that they're worth less or dying. Many of our species can live over a hundred years. Others are harvested sooner. Those are management decisions, not policy decisions. I am in support of this motion because I'm not convinced, as a forester, and was not convinced in the committee that we should be increasing the level of harvest up to the level proposed. Nothing to do really with how the money would be spent. The timber is not going to waste. The values on public parks and lands we were told is not actually dropping. Timber prices are going up and the volume that we have on our forest is also going up. That's the reason we have more value, so we can probably cut more, certainly more than we had in past years. Finally, Parks and Lands told us that, yes, they could use this money. It's a policy decision for the state, not a policy decision for Parks and Lands, where that money goes. They can use it. They can do increased forest management. They could do other things. If we, as a state, decide we want to do something with their money, or the money that's now allocated there, dedicated there, than we could, but that's not necessary for

forest management reasons. For all those reasons, I'm in support of the Ought Not to Pass. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, with respect to the Constitutional issue, I really suggest that's been settled. There's been a case which is interpretive of that language about use for the school and ministry purposes. The law court has given us wide discretion as long as it's used for general public purposes. I don't think that's really an issue for us today. To me, it really does come down to two questions; one is a science question and the other's a policy question. On the science, is it reasonable and prudent to increase the amount of wood we are cutting? From what I've heard about the deliberations in the committee and all the evidence that was presented, the weight of expert opinion suggests we can increase the cutting in the way which this bill suggests and be able to use that. The second one, I agree with my friend from Cumberland, is a policy question. How do we use the extra money? I want to emphasize extra money, because as I understand it this bill doesn't take a penny away from the efforts we are currently making to use of the proceeds for maintaining roads, trails, and boundaries. We're only talking about how we use the extra money that we get from the extra timber we're talking about cutting. Should it go to more trails and more boundaries? Maybe so, but at a time when many Maine people are having trouble heating their homes and having trouble staying warm I don't think it should be a difficult priority, a choice, for us to say that keeping people warm and helping them improve the efficiency of their heating system is a more important priority today than putting extra money into trails and boundaries. Thank you, Mr. President.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#533)**

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

**NAYS:** Senators: BURNS, COLLINS, CUSHING, 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 **VITELLI** of Sagadahoc to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

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Senate at Ease.

Senate called to order by the President.

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

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

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

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Senator **CRAVEN** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **JACKSON** of Aroostook, **RECESSED** until 3:00 in the afternoon.

After Recess

Senate called to order by the President.

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Assigned (2/25/14) matter:

An Act To Clarify When Bonds May Be Issued  
H.P. 628 L.D. 904  
(C "A" H-595)

Tabled - February 25, 2014, by Senator **HASKELL** of Cumberland

Pending - **ENACTMENT**, in concurrence



(In Senate, February 13, 2014, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-595)**, in concurrence.)

(In House, February 20, 2014, **PASSED TO BE ENACTED.**)

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

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (3/20/14) matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group"

S.P. 414 L.D. 1177

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-435)** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-436)** (1 member)

Tabled - March 20, 2014, by Senator **LACHOWICZ** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 20, 2014, Reports **READ.**)

On motion by Senator **LACHOWICZ** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT A" (S-435)** Report **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-435) **READ.**

On motion by Senator **LACHOWICZ** of Kennebec, Senate Amendment "B" (S-488) to Committee Amendment "A" (S-435) **READ.**

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

Senator **LACHOWICZ:** Thank you Mr. President. The State and Local Government created a sub-committee based on a bill actually by Senator Saviello, the good Senator from Franklin, and so we met a number of times and came up with L.D. 1177, which we amended. In spite of that, there were still many disagreements on how to manage the issue of discontinued and abandoned roads, so what we decided to do was make some amendments to it and Senate Amendment "B" amends the timeframes in which a municipal legislative body must vote on an order of discontinuance based on the type of legislative body it is. There are many types of town governments people have, and we

wanted to recognize that towns that are more urban in nature and perhaps have a city council or are different and more rural and have a selectman type of municipal government. It also adds a time limit on the requirement that the municipal clerk can record a certificate of discontinuance. One of the things the sub-committee thought was that there needed to be record somewhere of the roads the town maintains. We also understood that some of the ones that had been abandoned or discontinued, there often wasn't a record. Maybe it was original easement back in 1820 and the town hall had since burned down. This removes the requirement that a municipality, up to 21 years after a certificate of discontinuance, has to reconsider and vote on that. It also changes the requirement that a municipality develop a list of all town ways that have been abandoned or discontinued since 1965. The town has to develop a list of things they know because often times people don't know. A lot of the public easements are discovered only when there's a sale and only when there's a problem with them. Thank you very much.

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 Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is a very complicated issue. Talked to people who served on State and Local Government years and years and years ago and they'll tell you that it's a complicated issue and it's hard to find a solution. First of all I'd like to try make people aware of how important access to private property is. If you own a piece of property that's growing timber that timber is absolutely worthless if you can't get it off that woodlot and get it to market. Without access you can't transport those trees to a mill. If you want to farm a piece of land and grow crops, if you can't get in to work that land and get back out with the crops that you've raised, if you don't have access the land is almost worthless. We are guaranteed in Maine that there will be no land lock land by law, but practically there is, in fact, a lot of land lock land because by the time you pursue that in court to get your access it's more than the property's worth. It's important that we maintain easements to property so that people can get at their property because if those easements are extinguished than that property becomes worthless. The way this bill is worded, and the way the amendment is worded, some people are going to lose access. Some of those public accesses are going to be lost and we're going to end up with a lot of court battles and it's not going to be funny.

The second part of this bill that makes it, in my opinion, a disaster is the mandate that it puts on towns because if the abandonment process is changed in the ways that we're talking about changing it with this legislation than there are going to be times when small towns are going to be forced to maintain roads and that's expensive. They are going to have to bring these roads up to standards that they just can't afford to maintain. The municipal people that I've talked to have all asked me to make sure, do my best, that this bill doesn't pass. For those reasons, the loss of access and the mandates on local governments and the increase in property taxes, I would hope that people would oppose the amendment and we'd move on to a way to fix this problem. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Kennebec, Senator Lachowicz to Adopt Senate Amendment "B" (S-488) to Committee Amendment "A" (S-435). 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 (#534)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, SAVIELLO, TUTTLE, VALENTINO, VITELLI, 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 **LACHOWICZ** of Kennebec to **ADOPT** Senate Amendment "B" (S-488) to Committee Amendment "A" (S-435), **PREVAILED**.

Committee Amendment "A" (S-435) as Amended by Senate Amendment "B" (S-488) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-435) AS AMENDED BY SENATE AMENDMENT "B" (S-488)** thereto.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (3/31/14) matter:

**SENATE REPORTS** - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Support School Nutrition and Expand the Local Foods Economy" (EMERGENCY)

S.P. 517 L.D. 1431

**Majority - Ought to Pass as Amended by Committee Amendment "A" (S-466)** (11 members)

**Minority - Ought to Pass as Amended by Committee Amendment "B" (S-467)** (2 members)

Tabled - March 31, 2014, by Senator **VITELLI** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-466)** Report

(In Senate, March 31, 2014, Reports **READ**.)

On motion by Senator **VITELLI** of Sagadahoc, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-466)** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-466) **READ**.

On motion by Senator **LANGLEY** of Hancock, Senate Amendment "A" (S-495) to Committee Amendment "A" (S-466) **READ**.

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

Senator **LANGLEY:** Thank you Mr. President. This amendment amends Committee Amendment "A" and the amendment directs the Department of Education to apply for federal grant funding for the implementation of the Local Foods and Training Program. While it strips the fiscal note in recognition of the financial times we're in, it does start to lay the foundation for the creation of local food hubs and drawing upon its strengthening relationships between our farmers, our fishermen, and creating a mechanism to get more local foods into our schools at competitive prices really is the key to sustainability and nutritious foods on the plates of our children and supports our local food producers. I hope you will give me your support, and Senator Johnson's support.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to thank the Senator from Hancock, Senator Langley, for introducing this amendment and I wholeheartedly agree. In fact, I think that this is something which had the unanimous support of the Education Committee, in a letter referring it to the Agriculture Committee. After a number of revisions to the bill, improvements different people brought to our attention, issues, and making that bill a stronger bill, it also had, in one form or another, the support of everyone in the Ag Committee. There was a divided report. Two people felt there should be a different amount of match in the loans in the program. Everyone supported the concept put forward in this bill, that we help grow the agricultural sector.

I want to take just a moment to tell you how I came by this idea and wholeheartedly asked for your support. This is something which started through the outgrowth of my involvement with the Farm to School Program and the people working on school and child health in my district. As I started looking into it I found out that there was a study done in 2010 about the challenges, logistical and otherwise, of getting more of our local produce into our school food service departments. I started working with Walter Beesley from the Department of Education and John Parker from the Department of Agriculture and other people that had worked on this problem before and were dealing with farm to school issues. We came up with this idea for how to

create an incentive, not a mandate but incentives and support, for growing this part of our infrastructure to support our agricultural economy, growing, and to better enable schools to develop that market for schools to make good, effective use of the food in the school programs. Why this so very important right now is that Maine needs more jobs. Maine needs more industry. Just to give you an idea how big an opportunity we have before us, the New England Food Division has done an analysis. I read the draft report, it's not quite out in hard copy yet. It points out how it is very feasible for New England to go from 10% of our food that we consume being produced locally to more than 50% over several decades. It is a vision that details what that would look like and how it plays out with the land and the farms and what's produced in New England. It means growing from 33,000 to 100,000 farms, quadrupling the farm production. It means going from less and \$2 billion in wholesale price value of what we produce for food to more than \$6.6 billion that we produce in farm production in New England, of which Maine has a very large role because we have a great deal of land that's not been developed, that has good soil and has good water supply. On top of that, why I'm confident that with the right support we can grow the agricultural sector well in Maine, we also have a growing number of farms and acreage in farming. We have a growing number of young children, young people, excuse me, getting into farming. The average age of the farmer in Maine is going down. This is not only a great way to create a stronger economy for Maine, to take advantage of something we do well and our resources support well in a sustainable and robust fashion, it also means more jobs, and more jobs for young people, doing something that supports thriving, healthier communities in Maine. I urge your support. Thanks you, and I am very grateful, although we have a difficult budget time, and with Senator Langley's help by being creative and finding ways to move this initiative forward and I urge your support. Thank you.

On motion by Senator **LANGLEY** of Hancock, Senate Amendment "A" (S-495) to Committee Amendment "A" (S-466) **ADOPTED**.

Committee Amendment "A" (S-466) as Amended by Senate Amendment "A" (S-495) thereto; **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-466) AS AMENDED BY SENATE AMENDMENT "A" (S-495)** thereto.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (4/1/14) matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Amend the Laws Governing the Location of Motor Vehicle Excise Tax Collection for Motor Vehicles Owned by Public Utilities"

H.P. 1259 L.D. 1754

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-774)** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-775)** (1 member)

Tabled - April 1, 2014, by Senator **HASKELL** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)** Report, in concurrence

(In House, March 31, 2014, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**.)

(In Senate, April 1, 2014, Reports **READ**.)

On motion by Senator **HASKELL** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)** Report **ACCEPTED**, in concurrence

**READ ONCE**.

Committee Amendment "A" (H-774) **READ**.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-490) to Committee Amendment "A" (H-774) **READ**.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment actually goes back to the original bill. The reason why I presented it is that, while there seems to be a lot of controversy over one of the parties involved here, what it actually brought out is that one of the other utilities actually thinks that now they'll have to headquarter all their stuff in one of the towns and, thereby, pulling out some of the vehicles that are housed in Aroostook County. Quite honestly, the whole thing for me is, I'm not a big fan of excise tax, I've tried to change what excise taxes are paid on vehicles, but when they're paid in the communities that the vehicles are actually operated in, even though I don't agree with the amounts, at least they are fair. This certainly seems to be something that I don't agree to as being fair. These vehicles are being used throughout the state. A lot of communities certainly could use this added excise tax and it's unfortunate that the whole controversy brought this out, but now that it is I certainly am going to try and protect the areas that I represent by allowing them to continue to have the excise taxes that they've had all along.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion for two reasons. First of all, Mr. President, this underlying bill went through public hearing and multiple work sessions and a 12-1 vote came out of committee. Before going down the road suggested by my colleague from Aroostook, we studied this field. Again, it was 12-

1. There are valid reasons why we decided to treat...that there are valid reasons why for 40 years now we've treated the fleets of public utilities differently from your car or mine or from vehicles from other for-profit, non-regulated corporations. There are good reasons for that. Before we throw out a rule which has served us well for 40 years we ought to take a hard look at it. In particular, this is just one piece of the pie. What about vehicles in other fleets? Why are we just isolating public utilities? If we're going to look at this area let's look at rental car company fleets. Let's look at food and beverage distributors or other for-profit corporations. Rather than rush this after deadline bill, which came up only in the last few weeks, it makes sense to look at the larger areas of life of how we do excise taxes and registrations for fleet vehicles and the Taxation Committee thought that was the way to go by a vote of 12-1.

There is a second reason, Mr. President, why I rise in opposition to the pending motion. It's a more troubling reason. I have great respect for my colleague from Aroostook, Senator Jackson. He rises because his town in his district will benefit from passage. I know that there are others who have similar situations in their towns. You may pick up \$5,000 in excise tax. You may pick up \$10,000, even as Augusta is losing \$200,000 were this motion to pass, money that my community can ill afford to lose. With our presence here as the capital we are the poster child for service center communities. This issue is not tremendously unlike times we talk about the school funding formula. We all, first of all, reach for the spreadsheets to see how our own communities will be affected by any suggested change in school funding. That's perfectly appropriate and natural. I do it myself. I certainly don't have any issue with anyone for whom this is simply a math issue, whether your district will lose or gain. From this perspective, I guess, this motion is business as usual. This bill is hardly business as usual.

Mr. President, today's episode of Senate TV is brought to you by Central Maine Power Company. The name of the program is Let's Punish Augusta. They may deny it, but I'm going show to you how that is absolutely so. You and I and all of us are a part of the show this afternoon and I suggest that we all decline to be a part of it. Let me take you back to February 15, 2011. I remember that day very, very well. It was my second month as a State Senator and this same bill, it was then L.D. 117, was before the Taxation Committee. I remember it so well because it was the first time I ever testified before a legislative committee. I spent the whole evening before putting together all the good arguments I could muster why this was bad public policy and I spoke at the hearing. I thought I covered all the bases, but I was put to shame, Mr. President, by the next speaker who followed me who was much more eloquent and persuasive than I was. That was the registered lobbyist for Central Maine Power Company, who got up and told the committee why this change suggested by the good Senator from Aroostook was such a lousy idea. I'd like to read to you briefly from his testimony, the Central Maine Power Company testimony that day. I quote, "As an advent follower of the political scene, I was interested and pleased to hear candidates from both parties campaign proclaim that the state should work harder to improve the business climate and make it easier and less expensive to do business in Maine. This is one bill that would make it more difficult and more expensive to do business here and the additional administrative burden and commiserative expenses would, of course, be passed onto our customers at Central Maine Power. CMP currently has one person who handles all of our vehicle registrations. Her

office is here in Augusta. Registration information for 557 vehicles is provided to the city. The excise tax is calculated and we are sent a bill for the amount we owe. One check is cut and we are done. Then we move onto the registration process, where the plates, stickers, and registrations are all handled at once." The lobbyist went on to say, "As you can imagine, calculating the excise tax for the various vehicles we own is not easy. We have bucket trucks, pole trucks, cars, pick-up trucks, and specialty vehicles of various vintages. The City of Augusta has the process in place to calculate our tax obligations and process our account. The alternative proposed by this bill," this gentleman went on to say, "would increase our administrative burden and expenses. Instead of one-stop shopping, our fleet manager would have to deal with 20 different city or town clerks who could have little or no experience with the type of vehicles CMP owns. I urge this committee to give this bill an Ought Not to Pass report." Mr. President, the committee agreed and this bill was defeated.

Now fast forward, Mr. President, to recently: the eleventh hour in this Legislature, with an after-deadline bill that tries to right this terrible wrong that's been perpetrated on Central Maine Power Company for 40 years. This bill was brought to us by who? CMP. It is so ironic that when the sponsor of this bill in the other Body was asked to sponsor the bill he thought it was a joke. This is no joke. Why is this before us? It doesn't take Sherlock Holmes to solve the mystery. Let me just switch gears a minute to talk about natural gas. Central Maine Power Company's owned by Iberdrola, which also owns a company called Maine Natural Gas, which is, by the way, a non-regulated utility. In 2013 the City of Augusta decided it wanted to buy natural gas for its own city buildings and was also looking for a commitment from a company to build out the natural gas into our residential neighborhoods. The city announced its plans to put this out to bid to see who would bid on this project. Maine Natural Gas didn't like that and the President of its sister company, Central Maine Power Company, didn't like it and made her feelings well-known, and vocally well-known, and did all she could to forcibly try to convince city officials not to put the matter out to bid, but simply to award the contract to Maine Natural Gas. The city manager and the mayor were targets of this lobbying. It did go out to bid, as it should have. Maine Natural Gas did not win the bid and it was very controversial. The process became controversial. Law suits got threatened. It didn't happen, but Maine Natural Gas pulled out of the process. In a full page ad in the Kennebec Journal Maine Natural called the City of Augusta officials shameful for the way the city had been handled. I'm not asking you to decide whether the city handled it properly or not, but the next thing that happened was that a representative from CMP called the City of Augusta and said, "By the way, we're not going to register our vehicles with you anymore. We're going to register them somewhere else for political reasons." It was pointed out to them that they can't do that, that the law says they have to register them where the corporate headquarters is. This bill followed. As a result of this, there is now a PUC complaint pending against Central Maine Power Company because a regulated public utility is prohibited by law from attempting to influence anything outside of their own regulated area. That's what the complaint suggests.

Mr. President, this bill is simply an effort to punish my hometown. It is as simple as that. When I asked Central Maine Power representatives; "Why the change of heart? You was so much against this two years ago, why the change of heart?" I was told, "Well, technology has changed. It's now easier for us to register our vehicles in these other places than it was before." I

checked, what has changed? What I found out is nothing has changed. The fact is that on-line registration is the same today as it has been last year, the year before, and for the last seven years. If that wasn't the reason than what is the reason? I looked at their testimony before the committee and now this is their reason why all of a sudden they want to spread this around the state and I quote, "During the Christmas Ice Storm, when we had tens of thousands of customers without power on Christmas Day, as Central Maine Power's liaison to NEMA I saw firsthand the overwhelming response we received from town officials and employees who took time away from their families to ensure that our crews were able to restore power in our service territory. There are no words to describe the partnership that we developed between CMP and town officials in the course of a week." It's heartwarming, but it doesn't pass the straight face test. If it walks like a duck and quacks like a duck, you know the rest. The fact is there was a dispute between Central Maine Power Company and my hometown. I'm not suggesting you take sides in that dispute. We shouldn't be asking to take sides and we shouldn't take sides. That's the point. CMP has brought this dispute here to the Senate Chamber where it does not belong. If you look up at the ceiling you'll see that there are no strings coming down to the floor. None of us are puppets. Mr. President, from my perspective, there are two reasons for which I ask my colleagues to vote no on the pending motion. First of all, a study of the larger issue of registration fleets is absolutely in order and the Taxation Committee agreed with that by 12-1. Secondly, until the PUC complaint versus Central Maine Power Company is resolved we should not allow ourselves to be dragged into this dispute. Mr. President, I urge a no vote on the pending motion and I ask for a roll call. Thank you.

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 Haskell.

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, despite the reasons that the bill might be before us, let me give you a little sense of what the committee was looking at when this bill came forward. What became clear as we came to understand it is that there is current state law regarding where vehicles of public utilities, regulated public utilities, are excised. There is law about that. The law about that is not a taxation matter as much as it is a rate matter. Apparently, in the history of the excise tax issue, it was determined that the rates would be impacted more favorably, it would be better for rates, if all of the vehicles were excised in one location and that became the law. That's why we have that law currently in place. The second thing that became clear to us as we began to get testimony is that there were a series of winners and losers, depending upon where you drew the line, and that for every community that came out ahead there was obviously a community that was going to come out behind and that would lead us to the type of spreadsheet politics that generally does not create good policy. Absent the time, frankly, as the good Senator from Kennebec said, this was a late session bill to delve into what the rate impacts would be and to whom this would apply. The committee determined that it was going to be appropriate to move forward with the study and find out those exact things and is there

still enough of a differential in excise tax delivery in order to impact rates, and there was conflicting testimony about that. That's worth knowing before you set the policy in place. Secondly, who's this going to apply to? There was testimony here from, let me find the right one here, apologies, Dirigo Electric Cooperative companies, which as all consumer owned utilities that serve about 42,000 customers in Maine. These are in small and rural areas. Although they service these small areas in contiguous towns, several serve large, sparsely populated areas of the state. These municipalities often have very limited hours when they are open, which would make it time consuming and inefficient to travel long distances to make excise payments in those towns. They respectfully requested that it be optional for the utility or otherwise exempt these smaller utilities. There was another consideration to be taken into account here, whether that was the right kind of a policy or not. Another consideration that came up is that staff is mobile. Sometimes if they are on a construction place they maybe in one community for nine months, six months, a year and a half and then somewhere else. How do you take those vehicles into consideration? Who's keeping track of those? The Coalition of Mayors came and spoke with us and respectfully requested that we not move forward with this because they were not sure of what it might do to electric rates. We just don't know the answers to those questions. At this point in time I believe it's appropriate for us to take a little step back, make sure that we are making a public policy based on good public policy decisions, and with more information than we currently have. I would ask you to join me in rejecting this current motion, rejecting Amendment "A", and go on to accept Committee Amendment "A", which would be the study. Thank you very much.

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

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, let me suggest to you that this bill is not about any one community or any one utility. This bill, or amendment, is about 40 years of bad public policy. It's about some communities being winners and other communities being left out of the picture. This amendment is about the City of Saco, Thomaston, Waldoboro, Sanford, Lewiston, Biddeford, Freeport, Farmington, Belfast, Trenton, Presque Isle, and many, many other communities that each one of us in this room represents. These communities have housed these vehicles for decades, yet they've received no benefit from housing these vehicles. The excise tax has been paid in just a few locations. Verizon, for instance, has for decades have paid their excise tax to the local communities in which their vehicles are housed, so if we do not accept this amendment that means the communities that you represent are going to receive less excise tax to take care of their roads in the upcoming year. That's all going to be paid now to the City of Portland. Certainly, I am pleased with the folks that represent the City of Portland but I don't think that does much for our communities that the rest of us represent. I think this is good public policy. It's long overdue. Forty years of these communities literally getting millions of dollars in windfalls. It's time for that to end. It's time for every one of us to have a portion of that so that our communities can take care of the roads that these vehicles are running on. Remember, it's not getting any cheaper or any easier for our communities to maintain these highways and these trucks and vehicles are not traveling strictly over communities like

Portland or Augusta's roads. They are traveling over all the roads throughout the state and it's a fair bill, it's the right thing to do, and I applaud the good Senator from Aroostook for recognizing that and bringing this amendment forward. 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, I voted for the study because I didn't think we had votes enough to do what I considered to be the right thing. The right thing is Senator Jackson's amendment, but I thought this was an important enough issue so I didn't want it to just go away. If we couldn't do the right thing than let's do a study, let's keep it in front of people so that maybe we'd find the courage to do what is right. Years ago when you paid your excise tax in town and then you took that excise tax, and I can remember standing in line in Bangor, to get the registration for a vehicle when there was no stagger. At the end of February, when you registration ran out, you'd go down and you'd get your little tin things that went in the license plate and you bent them over. That was the year. There was no month. It wasn't that long ago, believe it or not, Mr. President. It was an expense when the people from a public utility had to pay the excise tax and then travel somewhere. If you had to go to the individual towns to pay that excise tax, and then come back to the Bureau of Motor Vehicles to pay the license, that was a huge expense. Not today. Today you do it on-line, it's \$2 or \$3 a vehicle, and it's simple and it's easy and the cost to do the right thing is really inconsequential to our rates. Than you have to ask the question, or I had to ask the question of myself, is the excise tax a property tax that the corporation ought to be paying at its headquarters or is it a tax on motor vehicles that ought to go to the Highway Fund? I know in our town, I've done selectmen there, we used the motor vehicle excise tax on our roads. That was the money that went to fix roads, plow roads, and maintain roads, especially when the DOT changed the block grants and you couldn't use the block grants for regular road maintenance, it had to be construction purposes only. Is it fair for these vehicles? Is it good tax policy for these vehicles, that are housed in these separate communities, to pay no tax in these communities? No, I don't think so. I favor the good Senator from Aroostook's amendment and I think it's a great idea and I would urge people to vote for it. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, how much is this going to cost as an extra expense for CMP? How many of thousands of dollars? Does anybody really know? I don't think so. I would close with, again, a short quote in the words of Central Maine Power Company. "This is one bill that would make it more difficult and more expensive to do business here, and additional administrative burden and commiserative expenses would, of course, be passed onto our customers." For all of us here in this Chamber who are doing everything we can to keep those costs down, we ought to take them at their word on that one and we ought to study this. 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, on this fine sunny afternoon I ask you to reflect on whether changing a policy that's worked successfully for years is really to the benefit. We're looking at excise tax now as some kind of chattel, like chickens and pigs, being bartered back and forth. I think it's important we recognize that this is a business transaction. Mr. President, it's awfully late in the afternoon, I guess some of my colleagues are just enjoying the day too much. I'd just like the Body to consider what the effects may be on arrangements and commitments that have been made and I think we're opening a door here we may want to be careful about. I respectfully ask that perhaps the Secretary, if you would allow, could read the committee report at some point so we would understand where we're really voting and clarify the matter. Thank you, Mr. President.

At the request of Senator **CUSHING** of Penobscot, Reports **READ.**

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to rise and say that my good friend, Senator Katz from Kennebec, kind of made the argument when he said when CMP was told that they couldn't, that the law said that they had to excise their vehicles where they were headquartered, the corporate headquarters, that's my exact point. Bangor Hydro, Maine Public has merged. Their headquarters, interestingly enough, is going to be in Hamden, so Aroostook County now will lose that excise tax. That is the law. They have to follow the law and that's why the amendment is here. No strings. CMP, a great company. Augusta, a great city. Like the good Senator said, you fight for your area and that's what I'm doing today with this amendment.

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

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, now I think the Senate is getting a sense of what the discussion was in our committee. There are a lot of strings and there are a lot of pieces to this. We could do some spreadsheets and, incidentally, for those of you who think Portland is a big net gainer, we're not. It doesn't actually work that way. It also depends upon who you include. Would FairPoint be included? What about fleet vehicles? If this is good policy for one why isn't it good policy for all? Until we know the answers to those questions I think we're better off to just let this thing be, let the dust settle, get some information, and make good public policy. I urge you to reject this amendment. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Aroostook, Senator Jackson to Adopt Senate Amendment "A" (S-490) to Committee Amendment "A" (H-774). 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 (#535)**

**YEAS:** Senators: COLLINS, HILL, JACKSON, LANGLEY, MASON, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, WHITTEMORE

**NAYS:** Senators: BOYLE, BURNS, CAIN, CLEVELAND, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFKY, GRATWICK, HAMPER, HASKELL, JOHNSON, KATZ, LACHOWICZ, MAZUREK, MILLETT, VALENTINO, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

**ABSENT:** Senator: YOUNGBLOOD

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **JACKSON** of Aroostook to **ADOPT** Senate Amendment "A" (S-490) to Committee Amendment "A" (H-774), **FAILED**.

Committee Amendment "A" (H-774) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (4/1/14) matter:

**HOUSE REPORTS** - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at the Site of Production"

H.P. 1278 L.D. 1786

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-761)** (7 members)

Report "B" - **Ought Not to Pass** (4 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-762)** (1 member)

Tabled - April 1, 2014, by Senator **VITELLI** of Sagadahoc

Pending - motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-761)**, in **NON-CONCURRENCE**

(In House, March 31, 2014, Report "B", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

(In Senate, April 1, 2014, Reports **READ**.)

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

Senator **VITELLI:** Thank you Mr. President. I'd like to speak briefly to this bill, this proposal, as it was amended, "An Act to Exempt Dairy Farms That Sell Certain Milk and Milk Products at the Site of Production from Licensing and Inspection." I'd speak briefly to my Senate colleagues about what this bill does, which is pretty much what its title suggests. It aims to carve out a middle ground between two sides of an issue; those who think that raw, unpasteurized milk and milk products should not be sold at all, and on the other side those who think there should be no regulations and that farmers and producers should be freely able to sell what they wish. This bill, the middle ground, allows on-farm sales of unpasteurized milk and milk products, including cheese, yogurt, and other products, under the following circumstances; sales can only occur on the farm, face-to-face, between the producer and the consumer, follows the maxim, know your farmer, know your food. The producer, farmer, cannot advertise or promote such sales except face-to-face, in person between the producer and the customer. Upon request, the farmer must allow customers to visually inspect the farm where the dairy products are produced. The distributor must complete a course offered by the University Extension on milk sanitation. They must sample and test their water, unless the water supply comes from a public source. Finally, their products must be labeled with the name, address, and phone number of producer and include the statement, "This food has been produced by a milk distributor that is exempt from licensing and inspection by the State of Maine."

I do not have the advantage of being here last year when I understand a similar issue was considered by this Body, so during the hearing on this bill I was reminded instead of a previous discussion of a young, single mother who came to our program several years ago for help getting her business started. She was on disability at the time and trying to find a way to support herself and her daughter. She had discovered that her daughter had an allergy to cow's milk, so she bought two goats and started making cheese with the excess milk. It took her incredible perseverance and ingenuity, as well as the help of many others, but after several years she now has a new barn, a sizable goat herd, and is selling her cheeses to Whole Foods in Portland, among other outlets. It is this story that I think of with this bill, though I realize that not all micro-dairies will choose to be successful or grow to this extent. I see this bill as a small business bill, a small farm bill. It is a bill that tries to scale regulation with the scale of operation. It is a bill that acknowledges and supports the vibrancy and growth of Maine's small farm economy. It provides a pathway for small producers to develop their products and decide if they want to grow to scale and make the investments they need to reach larger markets, off-farm markets. It provides Maine consumers with the opportunity to support their local farmers and local farms. There, indeed, may be more that we need to do, but this bill tries to be a middle-way forward for our small farmers. Thank you.

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

Senator **VALENTINO:** Thank you Mr. President. Men and women of the Senate, I rise today to oppose this bill. As many of you know, I come from a farming family. My husband had a dairy farm in his family for over 100 years. I talked with them on a lot of issues. I'm a member of the Maine Farm Bureau Association. The Maine Farm Bureau Association has issued an updated

letter. I believe at the public hearing they spoke in favor of this bill. As of April 2, 2014 there was a new letter that was printed and it was distributed at my request from the Maine Farm Bureau saying, "We are opposed to the bill as drafted." One of the reasons they felt that the Majority Report may have unintended consequences of lowering the food safety bar for all milk and cheese producers in the state. There is also another letter from the Dairy Farmers of America that are also concerned. They say that raw milk is the perfect host for many harmful and dangerous germs and pathogens, such as bacteria, viruses, and parasites. I've also gone through a lot of the testimony that you had, that people were saying that consumption of raw milk or unpasteurized milk is not recommended for children.

I also refer to specific sections of the bill and what I have concerns with is, one is underneath "A", is that this can be sold at farm stands or eating establishments on property located on the farm. Obviously, it's only to the direct consumer, but my question would be; if I went over to somebody's house and they were serving something at a dinner party I wouldn't know if it was pasteurized or unpasteurized unless they happened to say something to me. I might be an end-user and I wouldn't know. The other thing is it says that the milk distributor must allow each person who purchases the unpasteurized milk to visually inspect the dairy farm. To me, that's a little ambiguous. Do you have to put up a sign? Do you have to leave your farm stand and go do a tour of your barn every time somebody wants to do an inspection? The other thing is I'm very concerned about the label that's put on that. It says that the label, if this is unpasteurized, says, "This food has been produced by a milk distributor that is exempt from licensing and inspection by the State of Maine." I find that very confusing. I don't know if that means that this farm is doing such a wonderful job that they're exempt from inspection, that they've got such a good track record. I would think that the disclaimer on the product should basically say, "Warning; this food has been produced by a milk distributor that has not been licensed or inspected by the State of Maine." With that, I have several concerns about the bill and I will be supporting the Farm Bureau and other organizations on the Ought Not to Pass. Thank you very much.

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 pending question before the Senate is the motion by the Senator from Sagadahoc, Senator Vitelli to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (H-761), 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 (#536)**

**YEAS:** Senators: CLEVELAND, GRATWICK, JACKSON, JOHNSON, LACHOWICZ, MILLETT, SAVIELLO, VITELLI, THE PRESIDENT - JUSTIN L. ALFOND

**NAYS:** Senators: BOYLE, BURNS, CAIN, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFKY, HAMPER, HASKELL, HILL, KATZ, LANGLEY, MASON, MAZUREK, PATRICK, PLUMMER, SHERMAN, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, WOODBURY

**ABSENT:** Senators: THOMAS, YOUNGBLOOD

9 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **VITELLI** of Sagadahoc to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-761)**, in **NON-CONCURRENCE, FAILED**.

Report "B", **OUGHT NOT TO PASS ACCEPTED**, in concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (4/2/14) matter:

**Emergency Measure**

Resolve, To Create the Task Force To End Student Hunger in Maine

S.P. 729 L.D. 1819  
(C "A" S-454)

Tabled - April 2, 2014, by Senator **JACKSON** of Aroostook

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 26, 2014, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-454)**.)

(In House, April 1, 2014, **FINALLY PASSED**.)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **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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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:



**ENACTORS**

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

**Mandate**

An Act To Establish Guidelines for the Stocking and Administration of Epinephrine Autoinjectors in Schools  
H.P. 1235 L.D. 1727  
(C "A" H-779)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Acts**

An Act To Conform Licensing Requirements for Real Estate Appraisers with Federal Law  
S.P. 685 L.D. 1724  
(C "A" S-476)

An Act To Protect the Public from Mosquito-borne Diseases  
H.P. 1299 L.D. 1808  
(C "A" H-780)

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

An Act To Cancel the No-bid Alexander Group Contract To Produce Savings in Fiscal Year 2013-14  
H.P. 1286 L.D. 1794  
(C "A" H-684; H "A" H-760)

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

An Act To Remove Medical and Dental Expenses from the Itemized Deduction Cap  
H.P. 1287 L.D. 1795  
(C "A" H-767)

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

An Act To Increase Employment Opportunities for Veterans  
S.P. 735 L.D. 1832  
(C "A" S-477)

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

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

**COMMUNICATIONS**

The Following Communication: S.C. 878

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

2 April 2014

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 1642, "An Act to Clarify the Law Governing Public Disclosure of Health Care Prices."

At a time when health care costs are increasing, we all need to be vigilant about what these services cost us. I am very much in favor of encouraging transparency for these costs through disclosure of prices. However, I am concerned about the process that health care entities use to disclose these prices. The law now requires that entities have available for patients the price list for frequently provided services and procedures. The price on the list is what the services would cost in the absence of health insurance.

Whether the entity provides the price or the entire list to the patient is irrelevant. The issue is whether the patient is getting an accurate estimate for what they will pay to a health care entity. Health care charges are rarely simple—a surgery at a hospital might result in separate bills from the hospital and the non-hospital-employed physicians, such as radiologists or anesthesiologists. The charge for the procedure itself might be separate from the room charge or medications provided in the hospital. Even a visit to a primary care doctor might involve separate charges for a routine checkup, a blood draw, and then lab work from a separate company. In short, providing a "price" for a service to a patient will most likely be misleading. It would be much more helpful for a patient, especially if they are uninsured, to be provided a complete estimate of health care charges.

For these reasons, I return LD 1642 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 Clarify the Law Governing Public Disclosure of Health  
Care Prices

S.P. 633 L.D. 1642

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

Senator **GRATWICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will speak just very briefly on Supplement 2. This has to do with the transparency of medical costs. This, obviously, is a major problem now in our healthcare, which is to say we often don't know how much procedures are going to cost us when we go in there. Transparency relates directly to competition; that is if my hospital can do it less than your hospital, and I have good quality, hopefully you'll come to mine. This is the competition we want our healthcare to be employing to have lesser costs. There are two things that I would want you to think about. One is the average prices and the second is the actual costs. When you go to a hospital or a doctor do you want to know the average price that is available? It costs an average of \$10,000 to have a total knee replacement and that's going to be put together in many different hospitals, many different situations, so you know about what it's going to cost. I would simply note that this is on the books already. This has been a law since 2005. On this Supplement 2, second paragraph, the third sentence down, "the law now requires," this is a quote, "that entities have available for patients the price list," that is the average price, "for frequently provided services and procedures." This is a somewhat inaccurate sentence, but it gets at the point that price list, in this context, means average price and this has been on the law and this is Section 1, 22 MRSA, Section 1718. It's been there for a long time. It's more observed in the breach than actually put up on hospital boards, but we now all have the right to know what average process are if we go to a hospital or a surgical center.

The issue here is that we're trying to define this more for out-patient services in a much broader spectrum because there's more to healthcare than just being in the hospital and we want to know actually what the actual cost is. My actual cost if I have diabetes, heart failure, and kidney disease is going to be quite different than your actual cost if you're in very good health and you're only 21 years old. The actual cost becomes very important for those people who have no insurance or people who have very high deductibles and this bill by the good Senator from Cumberland, L.D. 1642, tries to define three parts of this; one of what a healthcare entity is, and you'll see in the third sentence I read there that there really is no definition of what an entity is. This bill defines an entity as a practitioner's in-patient or out-patient. It defines the frequency necessary so that I, as a practitioner, have to tell you about the procedures that I've done frequently, which it says more than 50 times a year. If I cared for a stubbed toe or a sore throat or arthritis more than 50 times I've

got to tell you what that price is because I would know it fairly easily, whereas if you have something obscure, West Nile Virus or some other bizarre hereditary disease, that will not be included. Finally, it really does define what "price," it's important to remember that, the price is the actual amount paid as opposed to price list. I would say that the language here is not well used. This defines price as the actual amount you have to pay, I have to pay out of pocket because I have no insurance for example.

The Supplement 2 does really not make a great deal of sense in the third paragraph because, I quote here, "Whether the entity provides the price," and I'll simply remind you that's the actual price, "or the entire list," I think that means average price, "to the patient is irrelevant." I would say this is quite the contrary. With apologies to whoever authored this, "it's irrelevant" would seem to be an inappropriate term because at the very end of that paragraph they say that knowing the price, again the actual price, is likely misleading. If there's anything that is not misleading is actually knowing what it's going to cost. I'll also note that there is another bill coming down shortly, L.D. 1760, which will answer all the questions in this third paragraph.

The veto, I have to say, is somewhat inconsistent. There is no fiscal note on this particular bill, L.D. 1642, and the final thing is, again, to finish where I started, this promotes competition in the medical world and I think that competition in this particular context is very reasonable. Thank you, sir.

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

Senator **WOODBURY:** Thank you Mr. President. I'm actually the sponsor of this bill and I read the Chief Executive's veto message and I agree with nearly all of it aside from the need to veto this bill. This bill is kind of a first step towards healthcare price transparency. The Governor would like to make a more aggressive step and it's very much a step that I want to work with him on as part of a bill that we have coming before the Body in the next couple of weeks. I'm hoping that we will Override this veto and move on to that more aggressive step. 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 (#537)**

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

NAYS: Senators: CUSHING, THIBODEAU, THOMAS

ABSENT: Senator: YOUNGBLOOD

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being absent, and 31 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

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Off Record Remarks

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Senator **HASKELL** of Cumberland 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 **JACKSON** of Aroostook, **ADJOURNED** to Friday, April 4, 2014, at 10:00 in the morning.