

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

First Regular Session
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Pages 1 - 1159

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

In Senate Chamber
Thursday
May 7, 2009

Senate called to order by President Elizabeth H. Mitchell of
Kennebec County.

Prayer by Reverend Frank J. Murray, Immaculate Heart of Mary
Parish in Auburn and Blessed Teresa of Calcutta in Norway.

REVEREND MURRAY: Let us pray. All generous and all loving
God, we acknowledge Your spirit and we ask for Your help as we
begin today's legislative session. You are the source of all
wisdom and You bestow upon us the energy and creativity to
address our challenges and together accomplish our collaborative
solutions. We ask You in a particular way this day to help us to
work together for the common good of the citizens of the state of
Maine. As we welcome back to the Legislature today many
former members let us acknowledge their hard work and many
accomplishments. Help us appreciate that our present endeavors
build on the work of past legislatures and form the foundation for
future challenges. Finely, we ask You, loving God, to help us
know Your will and give us the courage to make it ours this day.
We make this prayer in Your name, Amen.

Reading of the Journal of Wednesday, May 6, 2009.

Doctor of the day, Dr. Robert Aranson, MD of Freeport.

Off Record Remarks

Out of order and under suspension of the Rules, on motion by
Senator **BARTLETT** of Cumberland, the following Joint Order:
S.P. 553

Ordered, the House concurring, that when the House and Senate
adjourn, they do so until Tuesday, May 12, 2009 at 10:00 in the
morning.

READ and **PASSED**.

Ordered sent down forthwith for concurrence.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill
"An Act To Clarify When the Rental of a Car Is Exempt from Sales
and Use Tax"

S.P. 240 L.D. 666
(C "A" S-77)

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (S-77)** (7 members)

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

In Senate, April 28, 2009, the Majority **OUGHT TO PASS AS
AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED
TO BE ENGROSSED AS AMENDED BY COMMITTEE
AMENDMENT "A" (S-77)**.

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

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

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **LABOR** on Bill "An
Act Pertaining to the Retirement of Certain Oil and Hazardous
Material Specialists"

H.P. 695 L.D. 1007

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (H-184)** (11 members)

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

In House, April 30, 2009, 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-184)**.

In Senate, May 5, 2009, the Minority **OUGHT NOT TO PASS**
Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

On motion by Senator **COURTNEY** of York, **TABLED** until Later
in Today's Session, pending the motion by Senator **JACKSON** of
Aroostook to **RECEDE** and **CONCUR**.

COMMUNICATIONS

The Following Communication: S.C. 305

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

May 1, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 1283 An Act To Reform the School Budget Validation Process

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

Sincerely,

S/Sen. Justin L. Alford
Senate Chair

S/Rep. Patricia B. Sutherland
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 306

L.D. 1113 An Act To Exempt Private Nonmedical Institutions from the Service Provider Tax

L.D. 1244 Resolve, To Advance Health Care in Maine

L.D. 1261 Resolve, To Require the Department of Health and Human Services To Provide Cost-of-living Adjustments for Nursing Facilities and Certain Medical and Remedial Private Nonmedical Institutions (EMERGENCY)

L.D. 1278 An Act To Exempt Services Provided by Alzheimer Care Facilities from the Tax on Private Nonmedical Institution Services

L.D. 1302 An Act To Prohibit Full-time State Employees from Enrollment in MaineCare

L.D. 1376 Resolve, To Reduce Homelessness for People with Mental Illness or Dual Diagnoses

L.D. 1396 An Act To Establish a Mental Health Services Advisory Commission To Improve Mental Health Services in the State

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

Sincerely,

S/Sen. Joseph C. Brannigan
Senate Chair

S/Rep. Anne C. Perry
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: S.C. 307

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

May 4, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 738 An Act To Require Patients of Opioid Treatment Programs To Release Medical Information to a Designated Primary Care Physician

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

May 5, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 1305 An Act To Provide for Prompt Resolution of Insurance Claims by Providing for a Direct Remedy by Consumers

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

Sincerely,

S/Sen. Peter B. Bowman
Senate Chair

S/Rep. Sharon Anglin Treat
House Chair

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

The Following Communication: S.C. 308

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

May 1, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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. 945 An Act To Protect the Rights of Siblings Separated by Adoption

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

Sincerely,

S/Sen. Lawrence S. Bliss
Senate Chair

S/Rep. Charles R. Priest
House Chair

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

The Following Communication: S.C. 309

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
COMMITTEE ON LABOR**

May 1, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 867 An Act Regarding Unemployment Compensation

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

Sincerely,

S/Sen. Troy D. Jackson
Senate Chair

S/Rep. John L. Tuttle, Jr.
House Chair

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

The Following Communication: S.C. 310

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

May 4, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

L.D. 1025 An Act To Allow Choice of Wine by Maine Consumers

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

Sincerely,

S/Sen. Nancy B. Sullivan
Senate Chair

S/Rep. Pamela Jabar Trinward
House Chair

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

The Following Communication: S.C. 311

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

May 1, 2009

Honorable Elizabeth H. Mitchell, President of the Senate
Honorable Hannah M. Pingree, Speaker of the House
124th Legislature
State House
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

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

- L.D. 265 An Act To Provide a Sales Tax Exemption to Certain Organizations That Provide Assistance to Members of the Military (EMERGENCY)
- L.D. 855 Resolve, To Establish the Commission To Study the Reform of Taxes and Spending in Maine (EMERGENCY)

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

Sincerely,

S/Sen. Joseph C. Perry
Senate Chair

S/Rep. Thomas R. Watson
House Chair

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

SENATE PAPERS

Resolve, Authorizing the Finance Authority of Maine To Oversee an Obligation Owed to the State by Lincoln Paper and Tissue, LLC

S.P. 552 L.D. 1477

Presented by Senator SCHNEIDER of Penobscot. (GOVERNOR'S BILL)
Cosponsored by Representative GIFFORD of Lincoln and Senator: RECTOR of Knox, Representatives: COHEN of Portland, GILES of Belfast, HUNT of Buxton, MacDONALD of Boothbay, MARTIN of Orono, PRESCOTT of Topsham, WRIGHT of Berwick.

REFERRED to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

Bill "An Act Regarding the Transfer of Licenses for Energy Recovery Facilities" (EMERGENCY)

S.P. 551 L.D. 1476

Presented by Senator HOBBS of York.
Cosponsored by Representative BEAUDETTE of Biddeford and Senators: GOODALL of Sagadahoc, SIMPSON of Androscoggin, SULLIVAN of York, Representatives: BEAUDOIN of Biddeford, CASAVANT of Biddeford, DUCHESNE of Hudson, PILON of Saco, VALENTINO of Saco.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **GOODALL** of Sagadahoc, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **LABOR** on Bill "An Act To Rename the Division of Deafness within the Department of Labor"
H.P. 599 L.D. 868

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY AS AMENDED BY HOUSE AMENDMENT "A" (H-238).**

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

READ ONCE.

House Amendment "A" (H-238) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors"

H.P. 267 L.D. 331

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

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

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

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend Certain Laws Related to the Department of Agriculture, Food and Rural Resources, Division of Quality Assurance and Regulation"

H.P. 308 L.D. 420

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-224)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-224)**.

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

READ ONCE.

Committee Amendment "A" (H-224) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Authorize the Social Work Education Loan Repayment Program"

H.P. 494 L.D. 711

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-218)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-218)**.

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

READ ONCE.

Committee Amendment "A" (H-218) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide the Office of Chief Medical Examiner Access to Controlled Substances Prescription Monitoring Program Data for the Purpose of Conducting Cause of Death Investigations"

H.P. 437 L.D. 623

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-203)**.

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

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

READ ONCE.

Committee Amendment "A" (H-203) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Encourage Access to Higher Education for Certain Child Care Providers

H.P. 736 L.D. 1069

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Add a Member to the Advisory Council on Health Systems Development"

H.P. 738 L.D. 1071

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204).**

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

READ ONCE.

Committee Amendment "A" (H-204) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Allow Limited Information Sharing in Domestic Violence Cases"

H.P. 260 L.D. 324

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-213).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-213).**

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

READ ONCE.

Committee Amendment "A" (H-213) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Amend the Intestate Succession and Wills Laws Concerning Wrongful Death"

H.P. 316 L.D. 428

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act To Protect Recreational Trails on Private Land by Exempting Certain Information on Recreational Trails from the Definition of 'Public Records'"

H.P. 562 L.D. 826

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **JUDICIARY** on Bill "An Act Concerning Advanced Directives To Give Effect to a Person's End-of-life Health Care Decisions"

H.P. 714 L.D. 1039

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-210).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-210).**

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

READ ONCE.

Committee Amendment "A" (H-210) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Establish the Permanent Commission on the Status of Women"

H.P. 190 L.D. 236

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TAXATION** on Bill "An Act To Promote Forest Certification and Long-term Forest Management"

H.P. 385 L.D. 540

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-209)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-209)**.

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

READ ONCE.

Committee Amendment "A" (H-209) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Amend the Laws Governing Axle Weights"

H.P. 605 L.D. 874

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-223)**.

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

READ ONCE.

Committee Amendment "A" (H-223) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Establish the Crime of Motor Vehicle Violation Resulting in Death"

H.P. 329 L.D. 441

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-78)**.

Signed:

Senators:

GERZOFSKY of Cumberland
NUTTING of Androscoggin
DAVIS of Cumberland

Representatives:

HASKELL of Portland
LAJOIE of Lewiston
SCHATZ of Blue Hill
BURNS of Whiting
WHEELER of Kittery
MAGNAN of Stockton Springs

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

Signed:

Representatives:

HANLEY of Gardiner
GREELEY of Levant
PLUMMER of Windham
SYKES of Harrison

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78) AS AMENDED BY HOUSE AMENDMENT "A" (H-185)** thereto.

Reports **READ**.

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

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Include the Study of Franco-American History in the System of Learning Results"
H.P. 310 L.D. 422

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

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
McFADDEN of Dennysville
JOHNSON of Greenville

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

Signed:

Representative:

CASAVANT of Biddeford

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Extend the Summer Tourism Season and Thereby Increase Sales Tax Revenues by Requiring that the School Year in Maine Begin After Labor Day"
H.P. 735 L.D. 1068

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

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot
WESTON of Waldo

Representatives:

SUTHERLAND of Chapman
FINCH of Fairfield
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
McFADDEN of Dennysville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A"** (H-220).

Signed:

Representatives:

JOHNSON of Greenville
CASAVANT of Biddeford

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Preserve the Commitment Made to Children in the State's Care"
H.P. 413 L.D. 575

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

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
JONES of Mount Vernon
JOY of Crystal
LEWIN of Eliot
STRANG BURGESS of Cumberland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-205).**

Signed:

Representatives:

PETERSON of Rumford
CAMPBELL of Newfield
STUCKEY of Portland

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought To Pass as Amended Report.**)

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Create a Speed Limit on Long Lake and Brandy Pond in Cumberland County"

H.P. 415 L.D. 577

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

Signed:

Senators:

BRYANT of Oxford
JACKSON of Aroostook
TRAHAN of Lincoln

Representatives:

CLARK of Millinocket
EBERLE of South Portland
WHEELER of Kittery
SHAW of Standish
McLEOD of Lee
SARTY of Denmark
CRAFTS of Lisbon

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

Signed:

Representatives:

SAVIELLO of Wilton
DAVIS of Sangerville

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Restore Equity to the Maine Public Employees Retirement System"

H.P. 232 L.D. 292

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

Signed:

Senators:

JACKSON of Aroostook
GERZOFISKY of Cumberland
MILLS of Somerset

Representatives:

TUTTLE of Sanford
CLARK of Millinocket
THIBODEAU of Winterport
HAMPER of Oxford
BLODGETT of Augusta
CUSHING of Hampden
BUTTERFIELD of Bangor
BICKFORD of Auburn
DRISCOLL of Westbrook

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-237).**

Signed:

Representative:

GILBERT of Jay

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act To Require United States Occupational Safety and Health Administration Training for Government Construction Contracts"

H.P. 472 L.D. 658

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-121).**

Signed:

Senators:
JACKSON of Aroostook
GERZOFKY of Cumberland

Representatives:
TUTTLE of Sanford
CLARK of Millinocket
BLODGETT of Augusta
BUTTERFIELD of Bangor
GILBERT of Jay

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

Signed:

Senator:
MILLS of Somerset

Representatives:
THIBODEAU of Winterport
HAMPER of Oxford
CUSHING of Hampden
BICKFORD of Auburn
DRISCOLL of Westbrook

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**.

Reports **READ**.

On motion by Senator **JACKSON** of Aroostook, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR**, in concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Legislative Term Limit Laws"

H.P. 26 L.D. 31

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-136)**.

Signed:

Senator:
JACKSON of Aroostook

Representatives:
BROWNE of Vassalboro
WILLETTE of Presque Isle
COTTA of China
CLARK of Easton
HARVELL of Farmington

SCHATZ of Blue Hill

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

Signed:

Senators:
SIMPSON of Androscoggin
COURTNEY of York

Representatives:
BOLAND of Sanford
HAYES of Buckfield
BEAUDETTE of Biddeford
KAENRATH of South Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Terms for State Senators and Members of the House of Representatives to 4 Years

H.P. 92 L.D. 108

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-139)**.

Signed:

Senator:
JACKSON of Aroostook

Representatives:
BROWNE of Vassalboro
WILLETTE of Presque Isle
COTTA of China
CLARK of Easton
HARVELL of Farmington
SCHATZ of Blue Hill

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

Signed:

Senators:
SIMPSON of Androscoggin
COURTNEY of York

Representatives:

BOLAND of Sanford
HAYES of Buckfield
BEAUDETTE of Biddeford
KAENRATH of South Portland

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator **BLISS** for the Committee on **JUDICIARY** on Bill "An Act
To Allow a Court To Award Attorney's Fees in Successful
Freedom of Access Appeals"

S.P. 254 L.D. 679

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (S-135).

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

READ ONCE.

Committee Amendment "A" (S-135) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.

Senator **SULLIVAN** for the Committee on **LEGAL AND**
VETERANS AFFAIRS on Bill "An Act To Amend the Laws
Governing Campaign Finance Reports and the Maine Clean
Election Act"

S.P. 380 L.D. 1016

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (S-136).

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

READ ONCE.

Committee Amendment "A" (S-136) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE
DAY.

Senator **PERRY** for the Committee on **TAXATION** on Bill "An Act
To Conform the Maine Tax Laws for 2008 to the United States
Internal Revenue Code" (EMERGENCY)

S.P. 35 L.D. 86

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (S-134).

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

On motion by Senator **COURTNEY** of York, the Senate
RECONSIDERED whereby it **ACCEPTED** the Report.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To
Provide for Treble Damages for Injuries Caused by a Person
under the Influence of Alcohol or Drugs"

S.P. 271 L.D. 734

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

Signed:

Senators:

BLISS of Cumberland
HOBBS of York
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick
BRYANT of Windham
CLEARY of Houlton
HILL of York
STEVENS of Bangor
KRUGER of Thomaston
NASS of Acton
BEAULIEU of Auburn
CROCKETT of Bethel

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

Signed:

Representative:

DILL of Cape Elizabeth

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

Reports **READ**.

On motion by Senator **BLISS** of Cumberland, the Majority
OUGHT NOT TO PASS Report **ACCEPTED**

Sent down for concurrence.

SECOND READERS

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

House

Bill "An Act To Allow the Donation of Certain Perishable Food Products to Nonprofit Organizations"

H.P. 485 L.D. 702

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act To Amend the Special Education, School Health and School Nutrition Laws Regarding Scoliosis Screening, the School Lunch Program, Transitional Services, Gifted and Talented Education Programs and the Maine Mentoring Partnership Grant Program"

H.P. 140 L.D. 161
(C "A" H-199)

Resolve, Directing the Department of Inland Fisheries and Wildlife To Recommend Measures To Increase the Number of Turkeys Taken by Hunters

H.P. 202 L.D. 256
(C "A" H-170)

Bill "An Act To Amend the Laws Concerning Campaign Report Exemptions"

H.P. 281 L.D. 374
(C "A" H-188)

Bill "An Act To Authorize the Employment of Animal Control Officers by Animal Shelters"

H.P. 362 L.D. 517
(C "A" H-192)

Bill "An Act To Require a Referee of a Land Dispute To Render a Decision within One Year"

H.P. 372 L.D. 527
(C "A" H-191)

Bill "An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention"

H.P. 447 L.D. 633
(C "A" H-201)

Bill "An Act To Amend the Laws Governing Lobbyist Disclosure"

H.P. 568 L.D. 832
(C "A" H-189)

Bill "An Act To Permit Brew Pubs To Sell Half-gallon Containers of Malt Liquor"

H.P. 622 L.D. 904
(C "A" H-181)

Bill "An Act To Combat Childhood Obesity through the Creation of Recreational and Athletic Fields"

H.P. 632 L.D. 914
(C "A" H-193)

Bill "An Act To Amend the Licensing Requirements for Marriage and Family Therapists"

H.P. 668 L.D. 966
(C "A" H-198)

Bill "An Act To Amend the Laws Governing the Maine Children's Growth Council" (EMERGENCY)

H.P. 671 L.D. 969
(C "A" H-159)

Bill "An Act To Establish the Independent Review Board for Police Involved in Fatal Shootings"

H.P. 733 L.D. 1066
(C "A" H-200)

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

H.P. 797 L.D. 1158
(C "A" H-194)

Bill "An Act To Ensure the Accuracy of Maine Election Results"

H.P. 809 L.D. 1170
(C "A" H-187)

Resolve, Regarding Legislative Review of the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds (EMERGENCY)

H.P. 856 L.D. 1236
(C "A" H-197)

Bill "An Act To Clarify the Use of Instant Redeemable Coupons with Alcoholic Beverages"

H.P. 912 L.D. 1309
(C "A" H-190)

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

Senate As Amended

Bill "An Act To Simplify and Consolidate Maine's Fishing Laws and Rules"

S.P. 34 L.D. 85
(C "A" S-128)

Bill "An Act To Allow Smelting on Certain Brooks on Long Lake in Aroostook County"

S.P. 108 L.D. 344
(C "A" S-129)

Act

Bill "An Act Relating to Death Benefits for Certain Law Enforcement Officers"

S.P. 135 L.D. 393
(C "A" S-132)

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Develop Best Management Practices for Poultry Production

S.P. 267 L.D. 692
(C "A" S-127)

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

Sent down for concurrence.

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting

S.P. 114 L.D. 350
(C "A" S-35)

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

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

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

On motion by Senator **BARTLETT** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

An Act To Provide Tax Relief to Workers Who Lose Their Jobs Due to Business Closure

H.P. 162 L.D. 197
(C "A" H-118)

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

RECALLED FROM GOVERNOR'S DESK

An Act To Protect the Integrity of the State's Carbon Dioxide Budget Trading Program and Auction Process and To Provide Allocations to the Energy and Carbon Savings Trust Fund

S.P. 93 L.D. 276
(C "A" S-42)

(In Senate, April 29, 2009, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (S.P. 550), in concurrence.)

Senator **BARTLETT** of Cumberland moved the Senate **SUSPENDED THE RULES** for the purpose of **RECONSIDERING** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

The Chair ordered a Division. 28 Senators having voted in the affirmative and no Senators having voted in the negative, the motion by Senator **BARTLETT** of Cumberland to **SUSPEND THE RULES** and **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence, **PREVAILED.**

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Off Record Remarks

The Honorable John E. Baldacci, Governor of the State of Maine, entered and addressed the Senate. (Amid applause, the Members rising.)

GOVERNOR BALDACCI: Thank you very much and thank you very much for your hospitality. Madame President, it truly is a pleasure to work with you in your administration and I appreciate being able to work with Senator Raye, Senator Courtney and also Senator Bartlett and Senator Marraché and the leadership that you have put forward. It's great to see some former colleagues that I served with. I saw Peter out here earlier. It's not a problem for you guys. It's like we're all going to be former Senators, former Governors. Take care of those members because we're all going to be in those chairs pretty soon. I had a guy tell me in the hallway, he said 'Go ahead, when you come back in a couple

of years you and I will sit on this couch together.' I said, 'Good idea.'

You know the issues are difficult and challenging. In my term it seems that they have only gotten more challenging each year, but I have to say, in this legislature, I have never seen as much cooperation between the parties and efforts for the people done as well. In the Appropriations Committee, in joint leadership, and in other committees. I think that's a testament to all of you because as tough as things are you step up to the plate and do what needs to be done. Believe it or not, we will come through these times and we will look back and we will say that these were the good old days. It's hard to think of it now, as challenging as it is, but it is really true.

One thing that I just want to share with you is that this place is like an extended family. If somebody has a baby, somebody's having a hard time, somebody's having a birthday, somebody needs an extra hand to do something on a weekend, this place sort of folds in and helps. People don't realize that outside of this building. Welcome Back Day is really like welcoming back an extended family member. Welcome back, it's great to see you here. I can't believe how much older you've gotten. I see your hair is grayer and mine is gone. We're both in good shape. Listen, thank you very much for being here. Enjoy the day. Enjoy the memories. To the current members, really take time, as you have been, to build those personal relationships because the issues will go with time but the relationships will stay forever. Make them good, make them strong, and we look forward to continuing to work with you. Congratulations and thank you very much.

The Governor withdrew from the Senate Chamber. (Amid applause, the Members rising.)

THE PRESIDENT: It truly is an honor to see not only the folks that we've been spending 24/7 with but to see all of those who served here before. Frankly, it's like the cavalry has come to help us get through the difficult times ahead. We're so grateful. I did fail to mention to you, in case you didn't know, Governor Baldacci served from the 111th through 116th Legislature. He spoke from his heart about the Senate and I know that you all share those feelings about the sense of family and it never stops. We see you here today and we are absolutely thrilled to have you here. Friends and relations, I know the Secretary has a father here checking on her. We'll come to that in just a moment.

Right now we have some people who had the honor, and I can tell you it is an extraordinary honor, to serve as President of this very august body. I'm going to invite them up to address you briefly. I would like to invite the Honorable Gerald P. Conley, Sr., President of the 111th Senate, to the rostrum to make a few remarks.

The President requested the Sergeant-At-Arms escort the Honorable Gerald P. Conley, Sr., to the rostrum.

GERALD CONLEY: The last time I banged that gavel part of it went flying over to some Senator's sitting on the far side. It's always a pleasure to come back and visit the troops here at Augusta. I look at my life today as being on the Back 40 because I started in this branch back in the 102nd. I was down in the other branch for two terms and up here for eight terms. That was long before they ever heard of term limits. I want you to know that through the years I've kept a fairly close eye on what goes on

here in Augusta and I can tell you no one can be more proud of the Maine Senate and the Maine House today than I am for what they did yesterday. I remember back when guys like Larry Conley, names many of you have never heard, Harland Baker, Gerry Talbot, Mary Najarian, Peter Danton, Gerry Conley, Sr., and Gerry Conley, Jr., sponsored a gay rights bill for years and years and years. I think the first time we took a vote in the Senate on it we had four votes. I made damned sure we got a roll call because I wanted those four people to be proud going home and letting the world know the way they felt. Maine has taken a real great step forward. I'm what a call a back-bencher down there at St. Pius every Saturday afternoon at 4:30. I love my faith and I'm sorry that on some occasions that I disagree with the powers that be. I learned early in life that the first law of God was that thou shall honor thy Lord and thy God with thy whole heart and whole spirit but the second and most important part of that was to love thy neighbor as thyself. God bless you all and thank you very much.

The Sergeant-At-Arms escorted the Honorable Gerald P. Conley, Sr., from the rostrum.

THE PRESIDENT: It is my honor to invite the Honorable Charles P. Pray, President of the 112th through 115th Senate.

The President requested the Sergeant-At-Arms escort the Honorable Charles P. Pray to the rostrum.

CHARLES PRAY: Thank you very much, Madame President. It's difficult, always, to follow Senator Conley. I had the privilege of being tutored by him for a number of years. To remind those on the Minority side of the aisle, I spent my first eight years in the Minority. Senator Conley, obviously, having served in the Minority before moving into the Senate President's seat in the early 1980's. It does give you a broad perspective of what both sides of the political aisle goes through in the legislative process. I think sometimes it's important to remember that. It is a pleasure to have the opportunity to come back on Welcome Back Day and see some of the former staff members of Senate chamber and those who served as staff to the Senate President and those who have succeeded very well in the process. I don't know if she puts it on her resume but Libby did have the opportunity to work for me for a few months before she became Director of the Maine State Housing Program. I spent most of yesterday at the State library reading legislative acts from 1867. I have a purpose for doing that, but it's something that I also used to do when I was here in the legislature. I spent a lot of time in the Law Library reading up on what Bennett Katz had to say the 20 years before I became the Assistant Minority Leader, just in case he said something on the floor that I could use against him later on. I would recommend to each and every one of you in your tenure here to do spend some time at the Law Library and State library and look at the historical perspective of a lot of the things that the legislature has been through over the centuries. I thought in our tenure that we had solved all the problems, but obviously we left a lot of them for you guys to address. It's great to see people come back. Joe Brannigan, Bill Diamond, and Barry Hobbins, who I had the privilege of serving with here and also in the House for part of their tenure. It is a unique privilege to serve in this Body to represent the people of the state of Maine. You all know that. You appreciate it because you go out every two years and meet them again for reelection. You will appreciate it more and more

the further away you get. Some will come back. Doug Smith served in the House and took a hiatus for a while, but you have a different appreciation when you come back and see this process all over again. Senator Conley and others will mention things that we dealt with in our time and tried to address. You people are finally resolving and solving some of those issues. It is an on-going process and in this great democracy that we have it is so unique and such a privilege to have the opportunity to represent the people. Somewhere down the road in the future the people will be going to the achieves in the museum and reading things about legislative action that you have taken and how you have improved, in these particularly difficult times, the quality of life for Maine people. I want to thank you all. Thank you.

The Sergeant-At-Arms escorted the Honorable Charles Pray from the rostrum.

THE PRESIDENT: I can tell you from my brief experience here that there is an extraordinary close relationship between presiding officers. Not a day goes by that I'm not in constant conversation with the presiding officer of the House. I have that special relationship with the next former President of the Maine Senate because when I had the honor serving as Speaker Senator Mark Lawrence was President of the Maine Senate. We spent many hours together over budgets and schedules and every thing else. It is my distinct honor to welcome the President of the 118th and 119th Senate to the rostrum to give some remarks, the Honorable Mark Lawrence.

The President requested the Sergeant-At-Arms escort the Honorable Mark Lawrence to the rostrum.

MARK LAWRENCE: Thank you very much, President Mitchell and the distinguished members here in this Body and the many members who have come back for Welcome Back Day. It's indeed a pleasure to be back here. You have many great challenges facing you. I know this is a very tough session. The only words of wisdom I want to leave you with are long after the holes in the budget are filled and long after the LDs are passed they will fade in memory but what will last is the friendships you build here and the respect you build here for each other. It crosses party lines. It crosses geography. That is the most important thing you'll walk away from here in the legislature. I want to wish you the best for a wonderful and successful session. Thank you.

The Sergeant-At-Arms escorted the Honorable Mark Lawrence from the rostrum.

THE PRESIDENT: It's my privilege to recognize the former Senator who is here today from the earliest Senate session. You saw him get an award at the other end. That is Emile Jacques. He began as Senator in the 100th session. For those of you who don't know the numbers of these sessions, that was 1961 through 1962.

EMILE JACQUES: It's a pleasure to meet everyone over here and to be recognized. I feel like, oh I don't know, like a King, but I've never been one. Yes, I was floor leader in the Senate and I can remember getting beat by one vote to be President of the Senate. I didn't forget that one. The State Police had to come and get me home. That's how I made Ken Curtis his career, as a

matter of fact. It was a tie vote and I voted for him to be Secretary of State. I'm very proud to have served here. If there was any thing special in my life it was going into the service in WWII and then coming back here. I don't say it's the same, but it's almost. I don't know if I told this in the House or not, I can remember being told, 'Alright you guys, go out in the phone booth and have your caucus'. You weren't bad people. I enjoyed it very much and, believe me, thirty years from now you'll say to yourself the same. We talked about books and everything else. Writing books. I've been through a lot of things, believe me. Anyways, it was a pleasure and I don't want to take all the time because it might be interesting, but I can't remember all of it. I miss my friends like Jim Dudley and Gene Churchill, I saw him today, and Mr. Mills.

THE PRESIDENT: Senator Jacques, I would not be Senate President without your launching Governor Curtis on his career because my husband and I came here in 1971 when my husband came to work for Ken Curtis. We came to the great state of Maine to stay for two years and we haven't moved an inch. Thank you. It is my pleasure now to recognize the former women Senators. They are here from the earliest Senate session. Linda Curtis Brawn and Pamela Cahill. They first served in the 113th session, 1986 through 1988. I'd like to recognize at this time former Senators with the longest legislative service. The Senate member here today with the longest overall legislative service are Ronald Usher with 22 years of service, in the House for the 107th, 118th through 121st session and in the Senate 108th through the 113th. The longest overall service by a woman Senator is Mary Small with 24 years of service, in the House from the 109th through the 116th and in the Senate from the 117th through the 120th. I like what the House did, it's not on my script but would all former members and current members of leadership in the Maine Senate please stand. We have some very special guests. I think you all know that without our staff this place would come to a screeching halt in about five minutes. I'd like to recognize a woman who gets special credit because she raised a very special Senator as well as she ran this place. Molly, her name is Mary, K. Pitcher who served from the 107th through the 116th, who worked in the Democratic office, chamber clerk, secretary, Sergeant-At-Arms, and committee clerk. We have another outstanding former Sergeant-At-Arms from the 118th through the 121st, Robert G. Crockett of Augusta. All of us know we would be totally lost without our good Secretary here and many of you may think that the person I'm going to introduce always was in the House. It is not so, Ed. Pert served as the Senate Secretary in the 102nd. I'm going to now announce a lot of former members here and I'm going to ask you to stand and be recognized by your colleagues who are going to want to meet with you at lunch to find out your stories of what really happened here when you were here. Senator Jane Amero is still here in another capacity. She was the Assistant Majority Leader, she was a Minority Leader, and she served in the 116th through the 119th. I have another former leader standing in the rear of the chamber, guarding the door. I think he's trying out for Sergeant-At-Arms. The Honorable Michael Carpenter who was the Assistant Majority Leader in the 111th, he served in the House in the 107th, and in the Senate for 108th through 112th. I have a number of people I would like to stand and be introduced and I want to make sure that you get to see them and also that you get to lunch with the Culinary Institute and have time to visit with one another, which is very important. If you would just stand when I call your name and remain standing

then we can applaud for all of you when it's over. Senator Sharon Treat, Senator James Libby, Senator Severin Beliveau, Senator Donald Bernard, Senator Linda Curtis Brawn, Senator Pamela Cahill, Senator Richard 'Spike' Carey, Senator Gerald P. Conley, Sr., Senator Ted Curtis, Jr., Senator Peter Danton, Senator Charles G. Dow, Senator Norman K. Ferguson, Jr., Senator Emile Jacques, Senator John M. Kerry, Senator Richard Kneeland, Senator Mark W. Lawrence, Senator Willis A. Lord, Senator Roland D. Martin, Senator Carroll Minkowsky, Senator Charles P. Pray, Senator Edwin C. Randall, Senator Christine Savage, Senator Mary E. Small, Senator Wakine G. Tanous, Senator Raynold Theriault, Senator Howard M. Trotzky, Senator Ronald E. Usher, Senator Edward M. Youngblood, and Senator Muriel Holloway. Have I missed anyone who came in and I didn't get your name? I don't want to miss you. Senator Dean Clukey. Would you please give these outstanding people a round of applause. Again, we are so very grateful that you've taken the time to join us here today. I remember thinking as we had the budget pressures on us, 'Oh no, not Welcome Back Day in the middle of all this', but it's just the tonic and just the courage that we all need. Thank you for taking the time out of your day to join us here. Thank you all again.

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass Pursuant to Joint Order

The Joint Select Committee on **MAINE'S ENERGY FUTURE** on Resolve, Regarding Legislative Approval of the Public Utilities Commission's Plan for the Use of American Recovery and Reinvestment Act of 2009 Funds (EMERGENCY)
H.P. 1029 L.D. 1478

Reported that the same **Ought to Pass**, pursuant to Joint Order, H.P. 63.

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

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

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

(See action later today.)

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (4/29/09) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer"

S.P. 235 L.D. 621

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-100)** (8 members)

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

Tabled - April 29, 2009, by Senator **JACKSON** of Aroostook

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

(In Senate, April 29, 2009, Reports **READ**.)

Senator **MILLS** of Somerset requested a Roll Call.

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

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I'd like to proceed briefly to discuss what this bill is intended to do and why I'm opposed to it. I think the bill is based on an aggregation of studies that was done out of the mid-west, somewhere in Chicago, that aggregated studies from various sources that suggested that there were at least a few forms of cancer that were a little more predominant among firefighters than among the rest of the population. Whether the increase was statistically significant or whether we should give cognoscente to it in changing our laws is a policy question, really, for us to answer, bearing in mind that probably half the population comes down with cancer at some point in life. Many of us here in this chamber have had it. Many more have friends, relatives, and parents who had it. The bill lists about ten cancers and says that if a firefighter comes down with any one of these ten cancers within a certain timeframe after employment then there is something called a presumption that the cancer arose out of and in the course of employment as a firefighter and that this firefighter should be compensated for lost wages or earnings, not just as a firefighter but lost earnings from any capacity that they have, so it applies also to volunteer firefighters who aren't paid

but if they had loss of earnings from their regular employment they would get earning paid to them if they have a wage loss, and of course all of their medical relating to the cancer. The problem with the presumption is that once the presumption is passed into law it binds the Workers' Compensation hearing officer and throws onto the town the burden of showing that the cancer is unrelated. You wind up with the employer, the town in this case, having to prove a negative. The awkward part of all of this is no one knows, for the most part, what causes cancer. It's an insidious, scary aggregation of many diseases. For the most part we don't know how it starts or what causes it. If you are a firefighter the connection that is being made by this bill is if you are a firefighter and you come down with one of these ten different kinds of cancers then the burden shifts to the town to disprove the negative, which is practically impossible in many or most cases, and you wind up with the town assuming the burden of all those costs.

The backdrop for this bill is also interesting because it was only three or four years ago that this legislature incurred a \$20 million unfunded liability to provide a health benefit, that is a participatory health benefit, for firemen, municipal firemen and municipal police officers. It's not funded by the towns. It is paid for by the employees and by the Maine State legislature, although we haven't paid the bill yet. We have already afforded some measure of health care. It's designed to cover the gap between the day when you retire and the day when you become eligible for Medicare at age 65. We've already done this at State expense and haven't paid the bill yet. It's an unfunded liability. On top of this, if you pass this bill, we would be imposing on the towns the obligation of picking up a significant level of health care expense and lost wage or indemnity expense for cancers.

The interesting thing about the study, or aggregation of studies, from Chicago is that there were only four cancers that they thought you could draw a probable connection with between employment as a firefighter and the later development of cancer. This bill lists ten of them. Even those where a probability was mentioned, it was only a probability that there was an increased incidence, thus a possible causation connection among some of the cancers, the cases, but certainly not all because one of the listed cancers is prostate cancer and the prostate cancer in the population as a whole is astonishing. Somebody once said if you are a male and you get to be 95 years old you will have prostate cancer. It probably won't be the cause of your death but you will have it.

The bill goes too far. Yes, there are some state that have it. We passed out to you an editorial from the state of Oregon where the author of the editorial expressed great regret that such a bill was passed in Oregon. The literature that has been handed out by the firefighters suggests that this won't cost anything. Well, if it won't cost anything then why is there a problem? Why do we even pass a bill if it doesn't cost anything? I guess more significantly, if it doesn't cost anything why don't we look at the language of the fiscal note which say that this very likely, or could be, I don't remember the exact words, there is certainly a mandate issue in regards to this bill. Why don't we step up and do what we did for the health benefits that we provided to municipal police and firefighters? Pay for it. If it doesn't cost anything let's put it on the Appropriations table and pay for it. If it does cost something, why are we imposing that on the 495 or so towns that we have? I don't know if all of those towns have fire departments but many of them do, even among the smallest. We're imposing a cost on towns that they haven't anticipated,

they haven't budgeted for, and they don't have any vote on it. They have no vote on the issue. For all of those reasons I would urge that we have a roll call and that we vote against the report of the Labor Committee. Thank you for listening to me.

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

Senator **BARTLETT:** Thank you, Madame President. I rise in support of the pending motion. First and foremost, it's important to understand that this bill comes to us today because every single day we send firefighters into burning buildings where there is smoke, there is heat, and there are toxic chemicals. Day in and day out, people are going into buildings to save people, to save property, and to protect our lives. This bill is being brought forward out of recognition that we are putting them at a significantly higher risk for being diagnosed with cancer. This presumption is not a new concept. In the state of Maine we already have presumptions for firefighters for heart disease, lung disease, and infectious diseases. Twenty-seven other states already have presumptions for cancer, recognizing the increased risk. The list of cancers selected was not based on any single study. There was one study that listed four. There are other studies that listed many more and this was a list based on a compilation of studies. It's important to understand that currently under Workers' Comp law a firefighter who contracts cancer can today file a claim. There is nothing new in that regard. What changes is purely what happens when the hearing officer on the Workers' Comp case starts weighing the evidence. Everything else is the same. If someone contracts cancer they can file a first report with their employer, there is a mandatory mediation through the Workers' Comp Board, it gets referred to hearing, both sides marshal their evidence, and then a decision is made. Nothing changes. That is why this is not a mandate. There is no new activity for the municipality. There is not even putting on a new stamp. Any claim that can be brought under this act can already be brought today. The question is how the hearing officer looks at the evidence. The theory behind having these presumptions is the recognition that it is a whole lot easier to prove that there are other factors at play and that it is not work related then it is to prove that these types of illnesses are contracted by cancer. Given that it is a whole lot easier to disprove the relationship, we are going to say to the employer to go ahead and do it. We're going to put the burden on the insurers to go forward and do it. You can do that simply by pointing to family history or if a firefighter is a smoker or any number of other risk factors. If they have other employment where they are exposed to cancer causing agents. They can bring all that forward and rebut the presumption.

It's also important to recognize that before the presumption takes effect a number of things have to be established before the Workers' Comp Board and before the hearing officer. First and foremost, firefighters will not benefit from this presumption unless they have a standard medical screening for cancers when they started their employment or at some point prior to contacting the cancer. This isn't a case where somebody is going to go into firefighting with cancer already and then try to get their employers on the hook. This is a case of having to first have a screening showing that there is nothing and then if the cancer pops up they can take advantage of it. Secondly, you must have served as a firefighter for five years. That already takes out a huge number of firefighters in the state. Thirdly, you have to have regularly

responded to fire fighting calls. This isn't a volunteer firefighter who may have once a year responded to a call. There must be some regular response to fire fighting calls. You also must sign an affidavit to be submitted to the Comp Board that you do not have the cancer at issue prevalent in your family. That includes, under the law, your blood related parents, grandparents, or siblings. You've got to sign that affidavit under oath. As part of the discovery process you will also be required to turn over your medical history so there will be verification of that. If you lie on that affidavit the case is going to be over very fast. You're not going to benefit from the presumption. Additionally, as the Senator from Somerset, Senator Mills, had pointed out, somebody that is 95 years old is very likely to get prostate cancer, we set an age. We set an age cap. This doesn't apply once you are 70 years old. It also doesn't apply after you have been out of the service as a firefighter for ten years or more.

We put these limits in place in response to many of the concerns that you have heard here today, the same concerns that were heard in committee. We worked with the committee to come up with an amendment that met those needs. This isn't a presumption that is automatically handed out. You have got to have, I counted, at least five separate criteria before you can get in the door for the presumption and then once you are there the employer still has an opportunity to disprove it. Again, the mandate issue has come up but in order for there to be a mandate on municipalities you have to have two things. First you have to have some new activity. Secondly that activity must incur a cost. There is no new activity. This purely goes to the burden of proof at a hearing, goes to how a hearing officer weighs the evidence. We do this already for other illnesses. This makes sense. We know we are putting people at risk and if we are going to continue to send firefighters into high-risk situations, knowing that they are going to be exposed to cancer causing agents, at the very minimum we ought to give them some protection should they contract cancer as a result. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I am so very glad that the Senator from Somerset, Senator Mills, and the Senator from Cumberland, Senator Bartlett, went through all the legal aspects of this bill because obviously I'm not a lawyer. I'm certainly not a Comp lawyer. I'm not even a firefighter. I think they both laid out what the issues are. It is true, the committee did work this bill quite hard. It was basically letting both sides of the issue try to sit down and come to some agreement. We thought we were pretty close. In the end it fell apart. The suggestions that came from, I don't want to say the other side, the other parties we left in the bill because they did make good suggestions. We worked to try to accommodate those concerns. The Senator from Cumberland, Senator Bartlett, has gone down through all the things that were changed. In the end, when it came down to voting in the committee, for me, it was something I thought about quite hard. I had concerns over some of the cancers but the studies really did kind of make me think that, at least for four or five of them, it was almost 100% ironclad that there was a correlation. The other ones they wouldn't say with such certainty but it certainly made me think that, by in large, that there was a lot larger chance that people were going to contract them. I just kept sitting there thinking about, now that I'm in the Senate, having only one full

time firefighter city but all the rest are volunteers. I think something that you should probably understand is when the Senator from Somerset, Senator Mills, talked about us doing health insurance for firefighters that were for full time firefighters. That wasn't for all the volunteers that we have in the state. I think we have a lot more volunteer firefighters than we do full time. Obviously, the people that are full time do that day in and day out. They are out there putting their lives on the line and it seems just seems right to me that they should have this protection. Then again, I think about the volunteers and. Honestly, for me, I drive down the road in my smaller towns on Saturday and Sunday and I see those guys at the fire stations and the schools, doing these trainings, doing these musters, for nothing. Honestly, I think to myself, 'Why are you doing that? You worked all week and you're spending your whole weekend doing these trainings on a volunteer basis.' They do it for people like myself. Protecting my home. Protecting foolish little things like photographs of my kids. Things that if I had a fire I'd lose. I think that's a pretty worthy thing. When those people have done that for years and done it for no other reason than my benefit and if one of them came to me and said, 'I've got cancer and I think I got it because I was a fireman' I wouldn't have the heart to tell them that they had to prove it. When they talk about the cost to town, well that's my cost. I fully understand that. I don't care if people go out and say, 'Senator Jackson's willing to raise taxes on the people of Maine'. I am willing to pay more for the protection that these guys give my family. That is why I voted for the bill.

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

Senator **SHERMAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **SHERMAN:** Thank you, Madame President. The good Senator from Cumberland, Senator Bartlett, laid out some of the parameters that one would use in order to decide who is in or out. He used the five years regularly called out, whatever that means, or responding. Then a ten year issue. When I was on Criminal Justice I knew the number of firefighters full time and voluntary. I would like to see if it is available, the actuarial study they did, as to how many this would actually cover. It certainly doesn't cover 10,000. Probably covers more than 5,000. I would assume the committee did that so they would have some parameters so that we could decide on whether this is a big cost or a small cost. If anyone could answer that I would be appreciative.

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

Senator **NASS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I just have a question for the Chair. We're a little confused here. There is a fiscal note dated 4/22/09. If you go on line you look at a fiscal note that doesn't have a date on it. Currently on line it's indicating that this is a State mandate and provides some significant language. The fiscal note dated 4/22 waffles a little bit. It says 'local government cost potential

State mandate' even though in the text of the fiscal note it talks about the local cost being significant statewide and further indicates, under the detail, this legislation will increase costs to local government in the form of both higher premiums for Workers' Compensation Insurance and increased legal costs. Those are direct costs. I guess, Madame President, I'm asking for a ruling from the chair. What is the situation? Are we going to be voting on a 2/3 vote or are we going to be voting by majority? Thank you.

THE PRESIDENT: The Chair would advise that this is simply a majority vote to accept the report or reject the report. It is at engrossing that they would put on an emergency mandate, should there be one required. For today, it is simply a majority vote to accept the committee report. The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, this has been a very difficult bill for me. First of all I want to say thank you to all the firefighters who serve our communities so well. We do owe them a huge debt of gratitude. I thank them very much for their service to us. The dilemma that I have is that this year, in particular, we are hitting towns because of the financial situation the State is under with a lot of changes as far as revenue sharing and so on. The timing is very difficult with the stress that our communities are under. I, myself, have received communications from my towns with a list of things they would like me to support or not to support. There are very few things on that list that I can control. This is one of those votes that I would like to support our firefighters but I just feel very sensitive to the situation of the towns. I cannot go back to my towns and say, for sure, that this is not going to cost them more money. That's the problem that I have with this piece of legislation. I just think, unfortunately for me, that this bill and the timing of it is very difficult and I don't think I can support this legislation because of that. I would like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. Is this item something that can be negotiated within union contracts?

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

Senator **BARTLETT:** Thank you, Madame President. If I might, I can answer that question and one of the earlier questions as well. This cannot be done through bargaining. Workers' Comp is exclusively a creature of statute so all provisions must be articulated in Maine's Revised Statutes. This is the only way to achieve that result. Secondly, a question had been asked earlier about the number of firefighters this would apply to. I don't have the direct number once you apply the presumption. I don't know what the reduction is. I can tell you that there are approximately 900 career firefighters in the state and 7,500 volunteer firefighters. Let anyone think that this would open a floodgate, if you look at the national average of firefighters with cancer related disabilities it's .034% of the active firefighter workforce. What that would mean is that if everyone of those firefighters that I mention,

the 900 career firefighters and 7,500 volunteer firefighters, met the requirements of the presumption, which clearly they would not, you would be looking at, at most, two or three cases per year throughout the state. Once you started reducing that number down based on the requirements of the presumption, those folks who have a family history of the cancers, it's unclear that you would even have one that this would change the result for. I also want to make a brief note on the mandate issue. The fiscal note does say that it may represent an indirect modification of municipal activity. Again, as I said before, I do not believe that this in any way would constitute a mandate. The only way, conceivably, it could be done is if you could prove that somebody would not have filed a claim but for the presumption. I don't know about you, I do some Workers' Comp work, and most of clients don't come in and say, 'I'm going to file a claim because I've heard there is a presumption.' They know they contracted some sort of condition, illness, or disease and they come forward and say, 'I think I got this as a result of my job' and they file a claim. They file a first report of injury with the employer and the process gets started. That's the way it works. This is not a matter of people sitting down, calculating the presumption on whether to get in the door. You only have 90 days from the day you know you've got an illness to make that first report. I don't believe there is any new activity. I can't see of any conceivable way that a municipality could prove there is new activity. This is not a mandate and, in any event, we're not talking about opening the floodgates for Workers' Comp claim coming into this bill.

THE PRESIDENT: The Chair would interrupt debate just for a moment to recognize the presence of one of the most extraordinary doormen the Senate has ever possessed. Budro Weeger. He is trying to escape but we're going to recognize him first.

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

Senator **TRAHAN:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **TRAHAN:** Thank you, Madame President. There are many public safety folks other than firemen that go to these same scenes and under the same environmental conditions as firemen. I'm wondering if the committee had addressed the other folks that are at the same scene? Were they excluded intentionally or did you have a discussion around them?

THE PRESIDENT: The Senator from Lincoln, Senator Trahan poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you, Madame President. I'm not absolutely sure exactly which people the Senator from Lincoln, Senator Trahan, may be talking about but we were basically dealing with people that went into the buildings. We tried to put in

the idea that you had to be active firefighters so that you weren't someone that was considered a firefighter but just doing dispatch. The whole intent was that you was exposed to smoke, heat, and fire, which obviously is where you might contract cancer. I don't think there was ever any other thought about EMTs or anyone like that.

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

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

Senator **PLOWMAN:** Thank you, Madame President. May I pose two questions through the Chair?

THE PRESIDENT: The Senator may pose her questions.

Senator **PLOWMAN:** Thank you, Madame President. To anyone who might answer, I'm looking at section 4, liability of services performed for more than one employer. If someone could explain to me, assure me, that a private employer cannot be brought into the Workers' Comp issue as an apportioned employer. The second question is if a firefighter works for more than one department or municipality it looks like the last municipality they worked for would be on the hook for the whole claim without any apportionment between the departments or municipalities. Am I reading this section correctly? Thank you.

THE PRESIDENT: The Senator from Penobscot, Senator Plowman poses questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. If I may make an effort to respond to the most recent flurry of questions. To the most recent question, the answer is yes. It is the town of the last exposure that would pick up the entire cost. In regard to the apportionment issue, it is entirely feasible for a town that is on that list to bring an action against a non-municipal employer. For example, if somebody worked at Cianbro or BWI and was exposed to welding gases and had other carcinogenic exposure, even asbestos perhaps, the town could then bring in the private entity where that person worked and so there could be a multiparty effort to resolve the issue of causation. The private sector is exposed, in an indirect way, by having these claims rendered viable by virtue of the presumption. I think first responders are included in this version. It says that firefighter means a member of a municipal fire department or volunteer whose duties include the extinguishment of fires or responding to other emergencies. I think the way this report is worded, this version is worded, if you spent your entire career responding to other emergencies and never gone to a fire you would still be entitled to the presumption.

The studies that came of Cincinnati, not Chicago, from the University of Cincinnati was based on exposures presumably across a wide spectrum of firefighting entities including, I suspect, large municipalities like Chicago, Cincinnati, and New York where, as we know, firefighters are called upon to enter large industrial complexes with very uncertain risks. They are all full time professionals. Their exposure, over the course of the year,

one can only imagine are probably fairly significant. I don't want to take anything away from the firefighters that I know in my own region, but the typical response that you see are house fires, grass fires, and wood fires. Seldom, I would say, accompanied by an entrance to the burning structure. Sometimes it does require it, but not commonly. I rather think that the kinds of exposures that our firefighters are subject to in the state of Maine are very unlike most of the exposures that probably went into the databases of these various studies and reports that we assembled at the University of Cincinnati.

There was a question raised earlier about costs. We have a cost assessment from NCCI, which is the insurance entity that does cost assessments of this kind. Unfortunately they assessed the bill as originally drafted, which was a little more liberal than the one that lies before you. The assessment of that bill was that it would raise costs in Workers' Compensation proceedings for municipalities by somewhere between 7% and 27%. It would raise the incidence of claims, the claim frequency, by somewhere between 6% and 19%. The original bill had a few more cancers covered than this one and some other provisions. I put the numbers out there for whatever they may be worth.

One of my concerns about the draft that lies before you is that there is no requirement in the bill for direct exposure to heat, smoke, and radiation on a regular basis. I assume from the studies that it is that kind of exposure, repeated, that would give rise to a higher incidence of cancer, yet the bill only requires service as a fireman going to fires of whatever kind or other emergencies, presumably including health emergencies. Thank you.

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

Senator **BARTLETT:** Thank you, Madame President. There were a couple of questions that were raised with respect to apportionment provision, could you go after another employer, a non-firefighter. Under current law if you develop a cancer you can seek to go after either the municipality where you do your firefighting work or the other. Nothing changes here. The difference is the presumption. The presumption is only going to apply to your employment as a firefighter. If you were to get that employer liable for the Workers' Comp and they wanted to apportion against some non-firefighting, non-municipal employer the presumption doesn't apply. You are back to the exact same level of proof that you have today. Nothing changes with respect to those private employers. Similarly, with respect to the liability provision and the last exposure, that is where the presumption applies. This is something is conventionally done with other presumptions where there could be multiple exposure like asbestos. You go back to the most recent employer. That doesn't mean they can necessarily apportion, it means that the presumption applies to that employer. Finally, with respect to the assessment that was done by NCCI in the range of 7% to 27%, as the Senator from Somerset, Senator Mills, has pointed out that was based on the original bill. Even more importantly, not a single state, not even the mid-western states and not even a city where there are bigger cities and more potential exposures, have ever seen an increase anywhere near that amount. This figure is sort of a doomsday scenario which has never been seen by any of the 27 states that have put this in place. I do believe that is why they over stated it. With respect to the issue about exposure, it doesn't require actual exposure, it does require that your duties

include the extinguishment of fires or responding to other emergencies as a firefighter and you must be doing that regularly. The hearing officer will have discretion if the employer comes in and says that this person never actually showed up at a fire and never had any exposure to either not let the presumption apply or to rebut the presumption. If the employer comes in and says that person never showed up at a fire, that's going to rebut the presumption that those cancer-causing agents caused it. The hearing officer has the discretion. The presumption does not bind anyone. It simply says the burden of proof shifts and if you can show that this person did not have any exposure as a firefighter you are not going to be on the hook. Thank you.

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

Senator **JACKSON:** Thank you, Madame President. I didn't get a chance to copy it, but I certainly could for anyone that wanted to see it, one of the things that went around from League of Cities and we had testimony in the committee that came from May 24, 2008 Associated Press story from the executive director for the Vermont League of Cities and Towns. The League of Cities and Towns, I guess, would be like our Maine Municipal Association. I'm not 100% sure. The executive director was quoted as saying, 'We're afraid from the statistics from the studies we've done it looks like we're going to have to collect \$455 per firefighter to pay for the costs that are going to be associated with this bill. I'm pleased to report to you that we've experienced the complete opposite of Mr. Jeffrey's statement and experienced a reduction in premiums.' That was from Vermont. Twenty-seven states have it, like the Senator from Cumberland, Senator Bartlett, said. No one has seen a huge increase. I think you want to talk about the mandate and all that for some reason, I've never in my seven years been able to understand fiscal notes or how people get this information. It certainly seems like one side really got in early and made this look a lot worse than it ever could be. The other thing I'd just like you to consider, when you talk about higher costs to your towns and Workers' Comp, what are your costs going to be if these volunteer departments don't have a department any more? Your fire class code on your insurance is going to go up extremely high. That's going to cause everyone in the higher costs of insurance. I think about some of those people calling me, asking me for getting a grant for breathing pack apparatus, things like that that they don't have enough of. I run into that all the time. I meet with those volunteer firefighters quite often and that's always the thing out of their mouths is that they don't have enough of the equipment now or their equipment is old and it's been decommissioned and the town hasn't provided the money for them to buy new equipment. I just think it's getting harder and harder to keep these people doing this for nothing and the slight chance that one of them does contract cancer, I think they should have the opportunity to say that it was caused by fighting fires. I think about coal miners with black lung. There are occupations that you know that just raise your risk. Certainly mine, with having a tree fall on you, is a higher risk. I hope you support it and think of the guys that are protecting you and your families.

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

Senator **HASTINGS:** Thank you, Madame President. I'll be brief, but I want to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **HASTINGS:** Thank you, Madame President. I'm confused because I hear the Senator from Somerset, Senator Mills, tell us that the language of this bill applies the presumption even if a person has not been engaged in firefighting for five years but has been engaged only in emergency calls. I hear exactly the opposite from the Senator from Cumberland, Senator Bartlett, which seemed to indicate that one had to show that one had been engaged in firefighting for five years. I want to be clear what the standard is. Is anyone able to answer that question for me? Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Hastings poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President. Men and women of the Senate, I'm right. I don't mean to be facetious. The bill says that the duties include either, it doesn't say the word either but I'm inserting it, the extinguishment of fires or responding to other emergencies. There is nothing that says the presumption can't be raised for attending to anything but fires. I think that is the literal wording of it. I suggest that is the case.

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

Senator **ROSEN:** Thank you, Madame President. Members of the Senate, this is from the 'for what it's worth' department, which is probably not much. The discussion has left me more confused than clarified on this whole issue. The good Senator from Cumberland, Senator Bartlett, seems to indicate that the studies proves there is a link between certain cancers and exposure through this line of work, yet that there would be very, very few actual cases that would come forward. The idea of trying to figure out the linkage, the exposure, and who's on the hook for the bill is always very tricky. It reminds me of a situation I had in one of my communities. The residents on a street felt that there was a cancer cluster on that street. They were absolutely convinced that it was exposure from what had been a heavy metal mining operations not too far away. They brought in the federal CDC and state resources. They conducted exhaustive studies and in fact they looked at the prevalence of cancers on this particular street and discovered there was a higher rate than normal of people that were living in these homes. Just before they were ready to conclude the study they went back and said, 'Wait a minute, half of the residents are only seasonal residents. They live here during the summer and the other half of the residents are full time, year around residents.' In fact, there wasn't a link to those that were seasonal. The point being that this discussion that we just had reminds me of that experience. Connecting those dots and assigning the liability or the responsibility is tricky business and I remain a bit confused.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#66)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRYANT, COURTNEY, CRAVEN, DAMON, DAVIS, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, MCCORMICK, NUTTING, PERRY, RAYE, RECTOR, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BOWMAN, BRANNIGAN, GOOLEY, HASTINGS, MILLS, NASS, PLOWMAN, ROSEN, SCHNEIDER, SHERMAN, SMITH, TRAHAN, WESTON

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **JACKSON** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-100) **READ.**

On motion by Senator **MILLS** of Somerset, Senate Amendment "A" (S-104) to Committee Amendment "A" (S-100) **READ.**

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

Senator **MILLS:** Thank you, Madame President. Members of the Senate, this version of the bill addresses some of the issues that we've discussed at great length in the last 45 minutes. It takes the four cancers by name that achieved some notoriety or prevalence in Cincinnati study and says that it is these four cancers for which the presumption might apply. It does require that the firefighter show that he or she has had a direct exposure to heat, smoke, or radiation on at least 200 occasions during a ten-year career. It connects up the physical exposures with the rising of the presumption. It also requires that the firefighter show that there are not other elements in his own family's medical history that might account, or would account, for the diagnosis. It also restrains the liability provisions and makes it less likely that this presumption, or this case that is brought forward, will flow over and become a burden to private employers. Indeed, the risk will be imposed on the last municipality where the firefighter has incurred a substantial exposure, which is defined as at least thirty fires requiring the firefighter's direct and personal exposure to heat, smoke, and radiation. I would move the adoption of the amendment.

Senator **JACKSON** of Aroostook moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-104) to Committee Amendment "A" (S-100).

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

Senator **JACKSON:** Thank you, Madame President. I thank the Senator from Somerset, Senator Mills, for offering the amendment but I think we have just been through what a big issue it is for understanding cancer. I certainly believe that for a number of these cancers, more than the four that the Senator from Somerset, Senator Mills, has included in his amendment, firefighters are exposed to this and have a higher risk of getting it. To put a number like 200 and have a running calculation of being at fires and what constitutes a fire. We've already talked about it. It's just going to cause all kinds of problems. As the Senator from Cumberland, Senator Bartlett, said, a hearing officer has all kinds of discretion in this and you have to have been a firefighter who responded regularly. It doesn't put a number on it. I think some of the other things that the Senator from Somerset, Senator Mills, spoke about as far as the required medical tests is already covered in the bill that we just passed. I'll be voting in favor of Indefinite Postponement.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#67)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BRYANT, CRAVEN, DAVIS, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, MCCORMICK, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: BOWMAN, BRANNIGAN, COURTNEY, DAMON, GOOLEY, HASTINGS, MILLS, NASS, NUTTING, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, TRAHAN, WESTON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **JACKSON** of Aroostook to **INDEFINITELY POSTPONED** Senate Amendment "A" (S-104), **PREVAILED**.

On motion by Senator **BARTLETT** of Cumberland, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-100).

On motion by Senator **BARTLETT** of Cumberland, the Senate **RECONSIDERED** whereby it **PASSED TO BE ENGROSSED** the following:

Resolve, Regarding Legislative Approval of the Public Utilities Commission's Plan for the Use of American Recovery and Reinvestment Act of 2009 Funds (EMERGENCY)

H.P. 1029 L.D. 1478

(In House, May 7, 2009, Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED**.)

(In Senate, May 7, 2009, Report **READ** and **ACCEPTED**. **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.)

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

Senator **GOOLEY** of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 12, 2009, at 10:00 in the morning.