

MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Seventh Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 3, 2014

beginning at Page 1

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

In Senate Chamber
Friday
June 5, 2015

Senate called to order by President Pro Tempore Garrett P. Mason of Androscoggin County.

Prayer by Pastor Justin Frank, Penney Memorial United Baptist Church in Augusta.

PASTOR FRANK: Good morning. Let us pray. Almighty God, we pause this morning to give You thanks for all of the good blessings in our lives that we have received. It is easy to rush on in the busyness of the day without pausing to be grateful, so we pause now to give You thanks. We give You thanks for life and health. We thank You that we woke up this morning and are healthy enough to be here together at the start of this day. We give You thanks for the gifts and talents You have given us and the opportunity to put them to work in good and meaningful work. Thank You for the work we've been given to do and the abilities and experiences that have prepared us to do it. We give You thanks for those we know and love; for mothers and fathers, sons and daughters, friends and coworkers, husbands and wives, neighbors and fellow citizens. It is not good for us to go through life alone. We need the love and companionship of others, and so we give You thanks for the presence of these people in our lives. We have much for which to give thanks and we pause to do that. As we do we are also mindful of the good gifts we have received and are called to another purpose beyond personal benefit. The Bible says You told Abraham that You would bless him, but You would also make him a blessing. The Bible says Jesus said it is better to give than to receive and that too whom much is given much is required. Our blessings of love and ability and work and health find new purpose in the calling to serve others. The men and women in this Chamber have committed themselves to the cause of service, putting the blessings and abilities they received to work for the good of the people of Maine. I thank You for them and ask that You would help them in that good work today. Bless them and make them a blessing. Grant them wisdom and courage, perseverance and humility, so that out of their good work may come good results that serve the people of this state. Establish the work of their hands for good, for the sake of the peace and prosperity and flourishing of the great state of Maine. I ask in Jesus' name. Amen.

Pledge of Allegiance led by Senator Stanley J. Gerzofsky of Cumberland County.

Reading of the Journal of Thursday, June 4, 2015.

Doctor of the day, Maroulla Gleaton, MD of Augusta.

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: S.C. 407

**STATE OF MAINE
127TH LEGISLATURE
OFFICE OF THE PRESIDENT**

June 5, 2015

Honorable Heather J.R. Priest
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Priest:

Pursuant to my authority under Senate Rule 201.3, I am pleased to appoint the Senator from Androscoggin, Senator Mason to serve as President Pro Tempore. With this appointment Senator Mason will serve as President Pro Tempore for the start of the regularly scheduled session on June 5, 2015.

Please let me know if you have any questions regarding this appointment.

Sincerely,

S/Michael D. Thibodeau
President of the Senate

READ and ORDERED PLACED ON FILE.

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **TAXATION** on Bill
"An Act To Exempt Annuity Considerations from Tax"
S.P. 237 L.D. 644
(C "A" S-134)

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (S-134)** (7 members)

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

In Senate, June 3, 2015, on motion by Senator **MCCORMICK** of Kennebec, 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-134)**.

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

On motion by Senator **MCCORMICK** of Kennebec, the Senate **INSISTED**.

Sent down for concurrence.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Create a Civil Cause of Action for Intentional Interference with Business Operations"

S.P. 427 L.D. 1200
(S "A" S-149)

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

Minority - **Ought to Pass** (5 members)

In Senate, June 3, 2015, on motion by Senator **ROSEN** of Hancock, the Minority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-149)**.

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

On motion by Senator **BURNS** of Washington, the Senate **INSISTED**.

Sent down for concurrence.

Joint Resolution

The following Joint Resolution:

H.P. 986

JOINT RESOLUTION TO PROMOTE AWARENESS OF DYSLEXIA

WHEREAS, dyslexia is a cognitive disorder relating to reading and speech; and

WHEREAS, dyslexia is usually characterized by difficulty in learning to read with fluency and by difficulty in reading comprehension; and

WHEREAS, dyslexia is also associated with trouble memorizing number facts and difficulty in correctly performing math operations; and

WHEREAS, dyslexia is the most common learning disorder; and

WHEREAS, proper diagnosis of dyslexia and intervention can result in academic improvement in schoolchildren and improvements to the lives of adults; and

WHEREAS, a lack of awareness of the nature of dyslexia and the consequences of not addressing dyslexia ultimately results in significant costs to the lives of the citizens of the State and our economy; and

WHEREAS, with greater awareness citizens of the State will be better able to address the problems created by dyslexia; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-seventh Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to promote awareness of dyslexia in our State and urge parents to take action if they suspect their children may have dyslexia and urge adults who believe they may have dyslexia to seek assessment.

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

READ and **ADOPTED**, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 404

STATE OF MAINE 127TH LEGISLATURE OFFICE OF THE PRESIDENT

May 29, 2015

Honorable Heather J.R. Priest
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Priest:

Pursuant to my authority under Title 3, MRSA, Chapter 10, §227, I am pleased to appoint the Senator David Burns to the Maine-Canadian Legislative Advisory Commission.

Please contact my office if you have any questions regarding this appointment.

Sincerely,

S/Michael D. Thibodeau
President of the Senate

READ and **ORDERED PLACED ON FILE**.

Senate at Ease.

Senate called to order by President Pro Tempore
GARRETT P. MASON of Androscoggin County.

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Allow Regulated Metal Mining in Maine"

H.P. 503 L.D. 750

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-272)**.

Signed:

Senators:

SAVIELLO of Franklin
BRAKEY of Androscoggin

Representatives:

BUCKLAND of Farmington
CAMPBELL of Orrington
DUCHESNE of Hudson
HANLEY of Pittston
MARTIN of Eagle Lake
WHITE of Washburn

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

Signed:

Senator:

BREEN of Cumberland

Representatives:

WELSH of Rockport
CHIPMAN of Portland
HARLOW of Portland
TUCKER of Brunswick

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator WOODSOME for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Create the Southwest Harbor Water and Sewer District"
S.P. 436 L.D. 1231

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-185)**.

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

READ ONCE.

Committee Amendment "A" (S-185) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator BRAKEY for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify the Liability of Funeral Practitioners"

S.P. 162 L.D. 433

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-187)**.

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

READ ONCE.

Committee Amendment "A" (S-187) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator VOLK for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Protect Children in Municipal and School Facilities by Requiring Boiler Inspections"

S.P. 114 L.D. 299

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-191)**.

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

READ ONCE.

Committee Amendment "A" (S-191) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator **SAVIELLO** of Franklin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Legislative Day.

Senator WHITTEMORE for the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located in Augusta, Bangor and Thomaston

S.P. 262 L.D. 732

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-186)**.

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

READ ONCE.

Committee Amendment "A" (S-186) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

S.P. 395 L.D. 1123

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-192)**.

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

READ ONCE.

Committee Amendment "A" (S-192) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require the Department of Health and Human Services To Annually Update Its Rules Governing Services for Children with Cognitive Impairments and Functional Limitations"

S.P. 240 L.D. 647

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-193)**.

Signed:

Senators:

BRAKEY of Androscoggin
McCORMICK of Kennebec
HASKELL of Cumberland

Representatives:

GATTINE of Westbrook
BURSTEIN of Lincolnville
HAMANN of South Portland
HEAD of Bethel
HYMANSON of York
MALABY of Hancock
PETERSON of Rumford
STUCKEY of Portland
VACHON of Scarborough

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

Signed:

Representative:

SANDERSON of Chelsea

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

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

Senator **HASKELL**: Thank you very much, Mr. President. I would like the opportunity just to say something. As you can see from this report, there was wide support in the committee for this. I think it's very important to talk about this. There is a saying in the Autism Committee: if you've met one child with autism you've met one child with autism. That's how different they are. The symbol that raises awareness of it is the piece of the puzzle. I think you remember the little pins, buttons, ribbons, that we had that were pieces of puzzles. This tells you how complex this matter of autism is. Although the children share a diagnosis, each child is unique and the puzzle pieces are a constant reminder about those kids as individuals. With this in mind, what this bill does is considers additional evidence-based practices that are available to provide comprehensive treatment for children on the autism spectrum. No one treatment works for every child. Parents deserve the opportunity to choose what's best for their child. We're giving them that opportunity here with evidence-based programs that will help serve these children who, one at a time, deserve to have their individual needs met. Thank you very much, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I will keep my comments very brief. I was remarking to my colleague, the Senator from Cumberland, how I appreciate the opportunities when we have dueling Floor speeches on issues, but this is one occasion where we are absolutely in agreement. I did not want the opportunity to rise and agree with my colleague from Cumberland to go unnoticed. I just want to say that this bill would, as more evidence-based practices become available, give an opportunity to, on an annual basis, assess those and give an opportunity, if those treatments can be beneficial to individuals with autism, to look at including them as resources that are available for folks. I know that I'm sure that everyone in this Chamber probably knows individuals with autism. It's something that, I think, has touched our lives through our own families or other individuals that pass through our lives. We know how much people can struggle with it. To give people the opportunity, as new treatments become available, to access and look at that is a great opportunity. I would encourage the passage of the Ought to Pass motion. Thank you very much.

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

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey 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 (#151)

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, EDGECOMB, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, SAVIELLO, THIBODEAU, VALENTINO, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: None

EXCUSED: Senator: ROSEN

34 Senators having voted in the affirmative and no Senator having voted in the negative, with 1 Senator being excused, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-193) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prioritize Use of Available Resources in General Assistance Programs"
S.P. 362 L.D. 1036

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

Signed:

Senator:
HASKELL of Cumberland

Representatives:
GATTINE of Westbrook
BURSTEIN of Lincolnville
HAMANN of South Portland
HYMANSON of York
PETERSON of Rumford
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-194)**.

Signed:

Senators:
BRAKEY of Androscoggin
McCORMICK of Kennebec

Representatives:
HEAD of Bethel
MALABY of Hancock
SANDERSON of Chelsea
VACHON of Scarborough

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Promote Economic Development"

S.P. 409 L.D. 1140

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-190)**.

Signed:

Senators:

CUSHING of Penobscot
PATRICK of Oxford

Representatives:

HERBIG of Belfast
AUSTIN of Gray
BATES of Westbrook
FECTEAU of Biddeford
GILBERT of Jay
MASTRACCIO of Sanford
WARD of Dedham

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

Signed:

Representatives:

CAMPBELL of Newfield
LOCKMAN of Amherst
STETKIS of Canaan

Reports **READ**.

On motion by Senator **VOLK** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-190)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-190) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Encourage Greater Efficiency in the Unemployment Insurance System"

S.P. 503 L.D. 1371

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

Signed:

Senator:

PATRICK of Oxford

Representatives:

HERBIG of Belfast
BATES of Westbrook
CAMPBELL of Newfield
FECTEAU of Biddeford
GILBERT of Jay
MASTRACCIO of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-189)**.

Signed:

Senators:

VOLK of Cumberland
CUSHING of Penobscot

Representatives:

AUSTIN of Gray
LOCKMAN of Amherst
STETKIS of Canaan
WARD of Dedham

Reports **READ**.

Senator **VOLK** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

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

Senator **PATRICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise in opposition to this motion. I think this bill does three things that I have great concerns with. This bill gives the Chair much greater authority to make unilateral decisions about both policy and administration of the system. Overall this proposal enables the Chair to act with less transparency. On the policy level, this bill enables the Chair to act alone to make a host of rulings that absolutely could impact the results of cases, whether those are remand decisions, good cause decisions, or others. I feel more comfortable with a system where other commission members are involved in these kinds of decisions. It ensures an important check and balance and greater integrity in the system. On the administrative level, the Chair will control when and if a labor or business representative is on the payroll. The other members will be, in a sense, relying on the Chair to determine how often they work and, in turn, their level of compensation. Again, this has a potential to slightly tip the balance of the current system. Under

the proposal it is all but certain that the employer and employee representative will be less engaged and less versed in ongoing developments in the unemployment system, changes in case law, and etcetera as they will not be full-time and likely have other jobs. We believe having full-time members on the commission better serves laid-off workers and the overall system. This concern also amplifies our concerns about greater power in the hands of one individual. Based on recent Executive actions with hearing officers in the unemployment insurance system, hearing officers in the Workers' Compensation System, and general meddling in the operations of the Maine Human Rights Commission, I'm reluctant to increase the Chief Executive's power over the Unemployment Insurance Commission. This bill permits the Chief Executive to remove a member for inefficiency, amongst other reasons, while the committee of jurisdiction still plays a role in this. Given recent actions, this gives cause for concern. Regardless of who is in power, it is critical that the adjudicatory system is fair and impartial as much as possible and can operate outside the political pressures and influence. You will probably hear, Mr. President, that this does save some money, but with the concerns I've laid out the savings to the system does not outweigh the concerns. I served when the King administration was in. I served under the Baldacci administration. I've also served under the present administration. I can honestly say that no matter who is the Chief Executive I would have the same concerns going forward. I ask that you would vote in opposition to the Ought to Pass as Amended Report. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK:** Thank you, Mr. President. Members of the esteemed Senate, it's not often in here that we actually get to vote on bills to save money. Yes, as my good friend, the Senator from Oxford, mentioned, I am going to talk about the opportunity that we have here, with passage of this bill, to save over \$350,000 and potentially even increase the efficiency of our unemployment system. Unfortunately, over the last couple of years the cost of the IT expenses has really hindered Maine's ability for the unemployment insurance system to cover its own costs. This is the first year that they have actually asked for a General Fund allocation in the history of the program. We heard all about that in the Labor and Commerce Committee. The bill we propose today would maintain the representational aspect of the commission, preserving the neutral Chair and the representation of both employers and workers who are parties to unemployment cases. These two representatives would serve on a per diem basis, much like other boards and appellant bodies in the state and in line with how many other states handle unemployment appeals at the highest level. The current model is very expensive in relation to the cost of appeal functions used in other states. This actually works against Maine in the funding allocation process the U.S. Department of Labor uses to assess what each state will receive in its federal Unemployment Administrative Grant. The U.S. DOL, unfortunately, awards the full funding allocation to the ten states with the lowest staff cost per appeal decision that year for each state's entire reported appeal workload. If a state's cost per decision is higher than the cost reported by these ten states, the funding for that state's workload is reduced. The higher a state's cost is compared to the lowest ten, the greater the reduction.

What does this mean for Maine's funding? Maine ranks sixth of all states nationally for appeal costs. As a result, approximately 26% of our appeal workload does not receive any funding allocation from the federal government. The federal funding Maine receives to cover staff salary and benefits for both the division of Administrative Appeals and the Unemployment Insurance Commission covers these costs for only six months. The second six months of the year must be covered by underfunding other areas within the program. This has gotten us into trouble when we've run into increased lay-offs that have led to a higher workload for the staff, and then they fall behind and then the Legislature goes to the Department of Labor and says, "Why are you behind? Why is it taking so long for people to have their unemployment benefits processed?" Part of that reason is because we don't have the funding to staff at the level that we should. This is actually an opportunity to ensure that Maine workers are granted their appeals in a more timely way, so that their applications are processed in a more timely fashion, and we can have more integrity in our system. I urge you to follow my light and accept the Minority Ought to Pass Report.

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

Senator **CUSHING:** Thank you, Mr. President. Colleagues and friends in the Senate, I rise, too, in support of the Minority Report. In this case I do concur with my colleague from Cumberland that this is an opportunity to improve the efficiency in which we deliver services. This department is, as many of you know, funded predominantly through federal dollars. There are some limitations to how that can be applied. I just want to share a brief experience that I had some time ago, but it reflects on why I think there is a technology upgrade need here. The folks work very hard in that department to fulfill what has been at times an onslaught of requests and needs from people in unemployment. In those there are some cases that are different and require a system that is adaptable. Our town, where I live, had an employee at the municipal level who left employment there, then was employed briefly at another location. When the unemployment is collected, it is done by billing the municipality for that. They don't pay in as private sector does. In this instance, the bill was incorrect. The bill assessed the unemployment due for both of the jobs, not just the Town of Hampden. The manager was told when she inquired that she was correct. The amount was not what Hampden was due to pay as part of their share. She indicated that she would send Hampden's share and was advised that she couldn't do that because the system wouldn't accept the partial payment. She said, "So you are telling me I have to pay the full amount that you are telling me is not actually due from the town?" They said, "That's correct." "How do I get that money back?" she enquired. They indicated that she could get that money back as a credit the next time they had an unemployment claim. She said, "You're kidding me." They said, "No, it's actually worse than that. You have to keep track of the credit because our system won't." To me, Mr. President, that is a compelling reason why we should reflect carefully on the opportunity to improve how we deliver services to those who government is trying to take care of. Thank you for your time, ladies and gentlemen.

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

Senator **PATRICK**: Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, it's because I believe and worry about the actual fairness that I'm willing to forego the amount of money that we could save. I know Maine Equal Partners also testified in a similar fashion. They basically said federal law requires that unemployment insurance appeal hearings must be fair and impartial both in fact and in appearance. That fundamental premise is what ensures that both claimants and employers seeking review of an adverse decision will get a fair hearing. Fairness is essential in order to maintain public confidence in this important program and they are concerned that the structure proposed by this legislation would put that fundamental balance of fairness at risk. It's not always about saving money. It should be always about transparency and fairness. Similarly, by designating the Chair as the sole decider of whether or not good cause exists will allow a party that didn't make a timely appeal at the lower level to pursue an appeal. The potential for bias also exists and, again, this kind of decision, while not directly related to the merits of the case, can determine whether or not a party will even be allowed to make their case. I'm just looking at that I think we've had issues in the past, as I read before, on what has happened in other venues. It's important that we look at fairness above all other things. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK**: Thank you, Mr. President. I apologize for rising a second time. I just want to clarify one thing that we haven't brought up. The proposed language would provide that the Governor may remove a member of the commission for inefficiency, willful neglect of duty, or malfeasance in office, but only with the review and concurrence of the Joint Standing Committee of the Legislature having jurisdiction over labor matters upon hearing in Executive Session or by impeachment. Before removing a member, the Governor must notify the President of the Senate and the Speaker of the House of Representatives of the removal and the reasons for removal. This bill is not without stop-gap measures and I would appreciate your support. Thank you.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Volk to Accept the Minority 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 (#152)

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MCCORMICK, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO

EXCUSED: Senator: ROSEN

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **VOLK** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-189) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

RECESSED until the sound of the bell.

After Recess

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later Assigned (5/6/15) matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Implement the Recommendations of the Commission To Continue the Study of Long-term Care Facilities (EMERGENCY)
H.P. 70 L.D. 87

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

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-78)** (6 members)

Tabled - May 6, 2015, by Senator **BRAKEY** of Androscoggin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 5, 2015, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-77).**)

(In Senate, May 6, 2015, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-39) **READ**.

On motion by Senator **BURNS** of Washington, Senate Amendment "A" (S-173) to Committee Amendment "A" (H-39) **READ**.

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

Senator **BURNS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'll just very briefly try to give you a thumbnail idea of what this is all about. This bill was the result of the efforts of the long-term care study we've been engaged in for the last couple of years to try to improve the situation with our nursing facilities. Out of that commission's recommendations came a bill to do four particular things that would require the department to suspend their rules. Out of those four things this amendment pertains to one of those, one of those only. I'll go over the amendment to the Majority Report. The amendment of Committee "A" was to remove the requirement that the Department of Health and Human Services amend the rules as purposed in the bill except for one item which would require them to amend the rules so that cost of continuing education for direct care staff be allowed to be included in direct care costs for the entity or that nursing facility so that they can include that on their cost of doing business. It would help the nursing facilities to be able to claim that expense as part of their direct care costs. Thank you, Mr. President.

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I'll be supporting the motion on the Floor, however I just want to let you know that we have lost some things here that were originally proposed. It's unfortunate, but we understand that these kinds of things happen. I know Senator Burns spent a significant amount of time, I believe he was co-Chair of the Long-Term Care Commission, and the work that they did was remarkable. A number of those pieces have come to our committee, have been funded, have been considered. These were kind of the last four pieces. It's unfortunate that we were not able to get all the way to where we were going to get to. One of the things that we've lost is decreasing the occupancy percentage threshold in the rules that more accurately and fairly reflect the

realities of cost. The second you heard about, which was staff development cost, was included. The third was elimination of Quimby, and you will all get lost in the weeds if I try to explain Quimby to you. These are crossover payments where people fall between Medicare and Medicaid in their nursing facilities. It was a recommendation that these costs be continued. We were not able to do that, apparently, with this particular proposal. We've lost that. The fourth one that we'll be losing has to do with critical access designation for nursing facilities that should be added to the rules with higher reimbursement rates that are similar to what critical access hospitals are. It sounds like I'm being negative, but I just want you to know the kinds of important things that the commission did that this Legislature was not able to accomplish this time around. I certainly hope we're going to be able to come back to talk about these considerably significant and important conditions that ought to be improved in our nursing home communities. Thank you very much.

On motion by Senator **BURNS** of Washington, Senate Amendment "A" (S-173) to Committee Amendment "A" (H-39) **ADOPTED**.

Committee Amendment "A" (H-39) as Amended by Senate Amendment "A" (S-173) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-39) AS AMENDED BY SENATE AMENDMENT "A" (S-173)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/3/15) matter:

Bill "An Act To Extend the Funding Period for Landfill Closure Costs"
H.P. 404 L.D. 580
(C "A" H-115; S "A" S-113)

Tabled - June 3, 2015, by Senator **SAVIELLO** of Franklin

Pending - **FURTHER CONSIDERATION**

(In House, May 12, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-115).**)

(In Senate, May 27, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-115) AND SENATE AMENDMENT "A" (S-113)**, in **NON-CONCURRENCE**.)

(In House, June 1, 2015, that Body **INSISTED**.)

On motion by Senator **DILL** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-115) AND SENATE AMENDMENT "A" (S-113)**, in **NON-CONCURRENCE**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED SENATE AMENDMENT "A" (S-113)** and **INDEFINITELY POSTPONED** same.

On further motion by same Senator, Senate Amendment "B" (S-182) **READ**.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Penobscot, Senator Dill.

Senator **DILL:** Thank you, Mr. President. Ladies and gentlemen of the Senate, what this amendment does is simply add a brief phrase to L.D. 580. Where L.D. 580 read before that the commissioner originally issued a license on or before September 1, 1989, it adds the words "the commissioner originally issued a license or received a license application on or before September 1, 1989." Instead of changing the date, which gave, I think, DEP some heartburn and was afraid that it would open up the issue to other towns to do the same, this very much constrains it to anyone who has an application or license before that date. Thank you.

On motion by Senator **DILL** of Penobscot, Senate Amendment "B" (S-182) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-115) AND SENATE AMENDMENT "B" (S-182), in NON-CONCURRENCE.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/4/15) matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Impose a 2-year Delay on the Use of Standardized Tests To Evaluate Teachers (EMERGENCY)

H.P. 517 L.D. 764

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-264)** (6 members)

Tabled - June 4, 2015, by Senator **CUSHING** of Penobscot

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

(In House, June 3, 2015, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-264).**)

(In Senate, June 4, 2015, Reports **READ**. Motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report **FAILED**.)

Senator **CUSHING** of Penobscot requested and received leave of the Senate to withdraw his motion to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-264) **READ** and **ADOPTED**, in concurrence.

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

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

Off Record Remarks

On motion by Senator **CUSHING** of Penobscot, **ADJOURNED** to Monday, June 8, 2015, at 10:00 in the morning.