

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
Monday
June 8, 2015

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

Prayer by Pastor Richard Waller, Auburn Church of the Nazarene.

PASTOR WALLER: Good morning. Together we pray today with the spirit and with the mind. We pray for unity in this Senate of Maine family. We pray for wisdom to be given by God to the men and the women of this elected Body. We pray for attitudes of liberty and charity towards the people of the state of Maine. May God bless the Maine State Senate.

Pledge of Allegiance led by Senator James F. Dill of Penobscot County.

Reading of the Journal of Friday, June 5, 2015.

Doctor of the day, Joel Kase, DO of North Yarmouth.

Off Record Remarks

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

COMMUNICATIONS

The Following Communication: S.C. 409

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

June 8, 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 8, 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.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Remove the 100-megawatt Limit on Hydropower under the Renewable Resources Laws"

H.P. 90 L.D. 132
(C "A" H-270)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-270)** (6 members)

In House, June 3, 2015, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

In Senate, June 4, 2015, on motion by Senator **WOODSOME** of York, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-270)**, in **NON-CONCURRENCE**.

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

On motion by Senator **WOODSOME** of York, the Senate **INSISTED**.

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve Program Integrity Activities within the Department of Health and Human Services"

H.P. 288 L.D. 421

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

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

In House, June 3, 2015, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

In Senate, June 4, 2015, on motion by Senator **BRAKEY** of Androscoggin, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **BRAKEY** of Androscoggin, the Senate **INSISTED**.

Non-Concurrent Matter

HOUSE REPORT - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Change Municipal Campaign Contribution Limits"

H.P. 430 L.D. 617

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-167)**

In House, May 20, 2015, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167)**.

In Senate, May 26, 2015, Report **READ**. Motion by Senator **CYRWAY** of Kennebec to **ACCEPT** the **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167)** Report **FAILED**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-167) AS AMENDED BY HOUSE AMENDMENT "B" (H-310)** thereto, in **NON-CONCURRENCE**.

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

Sent down for concurrence.

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Repeal the Certificate of Need Requirement for Hospitals"

S.P. 264 L.D. 734
(C "A" S-167)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-167)** (6 members)

In Senate, June 4, 2015, on motion by Senator **BRAKEY** of Androscoggin, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167)**.

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

On motion by Senator **BRAKEY** of Androscoggin, the Senate **ADHERED**.

Sent down for concurrence.

COMMUNICATIONS

The Following Communication: S.C. 408

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

June 5, 2015

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

Dear Secretary Priest,

This is to inform you that pursuant to Title 3, MRSA §154, Governor LePage has withdrawn the following nominations:

Richard A. Cook of Hermon for appointment as a member of the Maine Milk commission, currently pending before the Joint Standing Committee on Agriculture, Conservation and Forestry.

Brian H. Noyes of Freeport for appointment as a member of the Maine Public Employees Retirement System Board of Trustees, currently pending before the Joint Standing Committee on Appropriations and Financial Affairs.

Nicole L. Boucher of Lebanon for appointment as a member of the Maine Community College System Board of Trustees; David R. Ferguson, Esq. of Limerick for appointment as a member of the Maine School of Science and Mathematics Board of Trustees; Gregory G. Johnson of Harpswell for appointment as a member of the University of Maine System Board of Trustees; Sarah Newell of Winterport for appointment as a member of the University of Maine System Board of Trustees, all currently pending before the Joint Standing Committee on Education and Cultural Affairs.

Jonathan B. Mapes of Springvale for appointment as a member of the Board of Environmental Protection, currently pending before the Joint Standing Committee on Environment and Natural Resources.

Jeffrey C. Lewis of Ellsworth for appointment as a member of the Inland Fisheries & Wildlife Advisory Council; Jerry W. Scribner of Belgrade for appointment as a member of the Inland Fisheries & Wildlife Advisory Council, both currently pending before the Joint Standing Committee on Inland Fisheries and Wildlife.

Susan E. Roy of Waterville for appointment as a member of the Maine Commission on Indigent Legal Services, currently pending before the Joint Standing Committee on Judiciary.

Richard J. Ezzy of Caribou for appointment as a member of the Loring Development Authority; Gary M. Koocher of Portland for appointment as a member of the Workers' Compensation Board; Glenn W. Burroughs of Lewiston for appointment as a member of the Workers' Compensation Board; Peter J. DelGreco of Brunswick for appointment as a member of the Maine Rural Development Authority; Bruce S. Harrington of Fairfield for appointment as a member of the Maine Rural Development Authority; John P. Moore of Yarmouth for appointment as a member of the Midcoast Regional Redevelopment Authority; Elizabeth F. Fitzgerald of Machiasport for appointment as a member of the Washington County Development Authority; Michael G. Radeka of Whiting for appointment as a member of the Washington County Development Authority, all currently pending before the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Jennifer S. Bichrest of Topsham for appointment as a member of the Marine Resources Advisory Council; Raymond C. Swenton of Gorham for appointment as a member of the Marine Resources Advisory Council; Christopher G. Weiner of Portland for appointment as a member of the Marine Resources Advisory Council, all currently pending before the Joint Standing Committee on Marine Resources.

Please let me know if you have any questions.

Sincerely,

S/Michael D. Thibodeau
President of the Senate

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

Senate at Ease.

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

PAPERS FROM THE HOUSE

Joint Order

An Expression of Legislative Sentiment recognizing:

The Maine Center for Disease Control and Prevention's Newborn Screening Program, which was begun 50 years ago with the purpose of identifying asymptomatic infants born with serious genetic disorders, allowing for early diagnosis and treatment. The Newborn Screening Program Joint Advisory Committee is now looking to include additional screening tests that identify infants at risk for other serious developmental, genetic and metabolic disorders that would not otherwise be detected, including Lysosomal Storage Disorders and Krabbe disease. Jamie and Kyle Davis are the parents of one child with Krabbe disease, Addilyn, of New Sharon, and have been fierce advocates in their efforts to expand the screening program to include Krabbe disease so that future parents can be spared what their family has endured. With Addilyn's Journey of Hope, a Facebook page with over 100,000 likes, and Team Addilyn, a local advocacy support group, combined with tireless and sustained effort, Jamie Davis and her family have given and continue to give a great gift to others: the gift of increased awareness of these disorders, a gift not only for the Joint Advisory Committee, but also for medical professionals and the public at large throughout Maine, the Nation and the world. We encourage the Joint Advisory Committee to develop educational programs for health care professionals and the public on the expanding role of newborn screening for the early diagnosis and treatment of these diseases and disorders and we send our best wishes to Jamie, Kyle, Rilyn and Addilyn Davis on their journey;

HLS 534

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

READ.

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

Senator **SAVIELLO:** Thank you, Mr. President. Ladies and gentlemen of the Senate, heroes. Heroes do extraordinary things. The Davis family has done extraordinary things. Addilyn is an extraordinary example that has taught us all what life is about. Often we are challenged to tough tasks and negative tasks. They've taken that negative opportunity and turned it into a positive and set an example for all of us. God gives us all challenges; little challenges, big challenges, sometimes impossible challenges. This family has accepted that challenge, embraced it, and made us aware of a dreaded disease. I thank them for this extraordinary example. I thank Addilyn and her family because they've given us true meaning to the word hope. 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 have to tell you that I can't remember an experience in many of my years here in the Maine Legislature that's touched me any more than getting an opportunity to meet the Davis family and to learn what Addilyn's Journey of Hope has been about. It's been an uplifting, terrifying, sweet, painful, marvelous, and frightening journey to learn more and more about this disease. I think many of you have received e-mails during the course of the time of the bill that I put forward, along with my colleagues, many of whom stepped down from

separate bills so we could have a unified force here on behalf of these young babies like Addilyn who have had the misfortune of being born with this disease, but it brought them into the most wonderful family that one could imagine. We know there are no mistakes and we know that this family, and the way it has stood up, has held, has protected, has cared for, and advocated for this child and for this family can't be matched. Unfortunately, we were not able to add this to the list, but we understand that. What we have done, and I believe that Jamie and Kyle and their family have done this single handedly, is bring the issue of this disorder to the forefront of consideration for many physicians here in the state of Maine so that we don't have the misdiagnosis that is so difficult for families who are experiencing what this young family has experienced. With us today is a member of the Newborn Screening Joint Advisory Committee who has been so supportive of the family and has been helpful in us understanding how this process works. I will tell you, it is the singlemindedness of this family that has brought this disorder to the very top. Cream rises to the top. This was an issue that needed to be at the top of consideration. It's happened because of this family and I will forever be grateful for the opportunity just to have known them and to have had them cross my path, even as briefly as we did. I encourage you all to become aware and know and understand more about this disease and this organization. Thank you very much, Mr. President.

PASSED, in concurrence.

THE PRESIDENT PRO TEMPORE: The Chair is pleased to recognize in the rear of the Chamber Dr. Tom Brewster, member of the Newborn Screening Advisory Committee; Jamie Davis; Peggy Anderson-Smith; Jacklyn Donald; Abigail Donald; Zoe Donald; Maryellen Mayo; Rilyn Davis; and, of course, Addilyn Davis. Would they please rise and accept the greetings of the Maine Senate.

Off Record Remarks

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Ensure That Schoolchildren with Dyslexia Receive the Assistance Needed"

H.P. 163 L.D. 231

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-279)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-279)**.

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

READ ONCE.

Committee Amendment "A" (H-279) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Support the Implementation of Proficiency-based Diplomas and Standards-based Student Learning"
H.P. 574 L.D. 840

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-292)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-292)**.

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

READ ONCE.

Committee Amendment "A" (H-292) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Improve School Administrative Efficiency and Expand Capacity for Professional Growth for Educators with Regional Collaborative Programs and Services"
H.P. 805 L.D. 1173

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-293)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-293)**.

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

READ ONCE.

Committee Amendment "A" (H-293) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Enact the Vaccine Consumer Protection Program"
H.P. 739 L.D. 1076

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-305)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-305)**.

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

READ ONCE.

Committee Amendment "A" (H-305) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Protect Maine Consumers in the Individual Health Insurance Market and Support Maine's Economy"
H.P. 913 L.D. 1344

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-291)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-291)**.

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

READ ONCE.

Committee Amendment "A" (H-291) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **JUDICIARY** on Bill "An Act To Help Municipalities Dispose of Certain Abandoned Property"
H.P. 610 L.D. 891

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-296)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-296) AS AMENDED BY HOUSE AMENDMENT "A" (H-304)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-296) **READ**.

House Amendment "A" (H-304) to Committee Amendment "A" (H-296) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-296) as Amended by House Amendment "A" (H-304) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED COMMITTEE AMENDMENT "A" (H-296) AS AMENDED BY HOUSE AMENDMENT "A" (H-304)** thereto, in concurrence.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify Laws Concerning the Registration of Professional Engineers"
H.P. 711 L.D. 1028

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-303)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-303)**.

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

READ ONCE.

Committee Amendment "A" (H-303) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Implement the Recommendations of the Government Oversight Committee To Ensure Legislative Review of Reports Submitted by Quasi-independent State Agencies"
H.P. 945 L.D. 1395

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-298)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-298)**.

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

READ ONCE.

Committee Amendment "A" (H-298) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing the Concealed Handguns Permit Application"
H.P. 359 L.D. 535

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

Signed:

Senators:

ROSEN of Hancock
BURNS of Washington
GERZOFKY of Cumberland

Representatives:

FOWLE of Vassalboro
CHENETTE of Saco
DAVITT of Hampden
GERRISH of Lebanon
LAJOIE of Lewiston
LONG of Sherman
THERIAULT of China
TIMMONS of Cumberland
WARREN of Hallowell

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

Signed:

Representative:

NADEAU of Winslow

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

Reports **READ**.

On motion by Senator **ROSEN** of Hancock, 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 Empower Parents in the Education of Their Children by Allowing an Opt-out from Standardized Assessments"

H.P. 471 L.D. 695

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

Signed:

Senators:

LANGLEY of Hancock
EDGEComb of Aroostook

Representatives:

KORNFELD of Bangor
HUBBELL of Bar Harbor
MAKER of Calais
POULIOT of Augusta
STEARNS of Guilford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-295)**.

Signed:

Senator:

MILLETT of Cumberland

Representatives:

DAUGHTRY of Brunswick
FARNSWORTH of Portland
McCLELLAN of Raymond
PIERCE of Falmouth
TIPPING-SPITZ of Orono

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-295)**.

Reports **READ**.

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

On motion by Senator **MILLETT** 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 Millett.

Senator **MILLETT**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the motion before us. As many are aware, we are in the middle of quite the firestorm around standardized testing in our schools and, in particular, the recent test called Smarter Balanced. There is a lot of confusion out in our schools and in our families and households about whether a child is required to, or not, to take the test. At this point in time it's critical that we, as a state, provide consistent and clear information to our educators and to our families about the law, parents' and families' rights, and the implications of decisions that are made around testing. There is a great deal of inconsistency in what's happening in our schools. There are some schools where there are no issues and there are other schools where there's literally rebellion underway. Our teachers, unfortunately, are the forefront of this and many are being given very confusing messages. Some are being told that they're not allowed to communicate at all and some teachers are feeling as if their jobs may be at stake if they address this issue. This bill provides some of that guidance, takes some of the pressure off of our educators, and would make sure that everyone is well informed about their rights and opportunities around

testing. I hope that you will vote in opposition to this motion so that we may vote Ought to Pass. Thank you.

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

Senator **LIBBY:** Thank you, Mr. President. Men and women of the Senate, I rise today in opposition to the pending motion. Standardized testing is not new and it's not without controversy, but federal and state mandates increasing the intensity and the frequency of standardized testing is relatively new and is why we're discussing this Ought Not to Pass Report today. As you all know, classroom time is at a premium. State and federal mandates on classroom instruction continue to grow while teachers and students struggle to meet all of the requirements placed on them in a 6-1/2 hour school day. The amount of time and energy expended on today's rigorous standardized test preparation and administration compromises the teacher's ability to customize instruction based on students' needs and compromises students' abilities to get the most out of their limited classroom time. Teachers, parents, and students in my community are fearful and they are frustrated and they are seeking relief from these heavy-handed testing mandates. School performance, teacher performance, and student performance based so heavily on standardized testing is deeply flawed. We all know that some students perform better than others on standardized tests and that test results alone do not universally reflect individual student's overall academic performance. While parents already have rights to opt out their student from standardized testing in the law, some school districts have been making it less than easy for parents to opt out their children from standardized tests. The Minority Report brings clarity to the process by requiring the Department of Education to make clear the right of parents to opt out. They can also present the relevant state and federal laws as it relates to statewide assessments. In some cases teachers and educators have been threatened with discipline for simply mentioning to parents that they have the right to opt their students out of testing. Teachers and parents know what's best for their students and it's unreasonable that educators in our state feel threatened to even discuss these rights that are spelled out in the law. The Minority Report makes it clear that educators have the ability to talk to parents about opting out of tests without fear of reprisal, using guidance prepared by our State Department of Education. I strongly feel that the State of Maine should not contribute to this confusion, this fear, this anxiety that exists because of threats around federal funding when school districts drop below a certain percent of participation in the standardized tests. We all know that not every kid performs well in the standardized tests and we do know that parents and teachers know their kids best. Can I ask you to oppose the pending motion? Thank you very much, Mr. President.

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

Senator **LANGLEY:** Thank you, Mr. President. I would ask folks to support the Majority Ought Not to Pass. First of all, I don't think we're in a lot of disagreement between the previous two speakers about the confusion and the role of standardized tests in our educational playing field, but let me point out to you why I think this is a bad bill for teachers, a bad bill for school boards, and a

bad bill for students. As my good Senate colleague from the Education Committee talked, there's a lot of confusion out there. I want to tell you how this bill will add to that confusion. When I got done teaching school I was one of 108 teachers that worked for the Ellsworth School Department. As you can imagine, there would be 108 different versions of exactly what was the law, the current law, school board policy, district policy, and this would just add to the confusion. Another reason why I think this would be particularly bad for teachers, as teachers were telling students and parents about their ability to opt out one might ask the question later on: "Mr. Langley, just who did you tell about the opt out? Which students and parents? Was it ones that you felt might not be successful in passing these tests, maybe students with special needs? Just exactly who are you telling and who are you not telling?" I just fear that puts me, as a teacher, in a tremendously bad spot. Our policy manuals in our school districts are very thick and if you're going to pick just one policy to be working on how about not the others. What about other opt outs? How do I opt out of phys ed? How do I opt out of community service? This is a bad bill for teachers to be put in this spot. It's a bad bill for school boards because this bill interjects itself in between school board policy and the teachers and the districts. Local control, that's their job. They are charged with overseeing. If this passes, a future legislation will arrive here for other opt out measures that we can make sure to bypass the school boards and go to directly into the teachers. Also it's bad for students. A number of school districts require the SATs for graduation.

I'd like to point out the differences in what this law does and how confused you could get with this. John Clark, who's an OPLA attorney, came to our committee and said it is, indeed, a parent's right to opt out. Absolutely, their right to opt out. However, the school department is within its rights to deny graduation. If a graduation requirement is that you must take the SATs in order to earn your diploma the parents have the right to opt out but may not have the right to graduate. If a teacher, well-meaning, explains to parents they can opt out but neglects to point the full ramifications of that, who will be there to clean up the mess? My guess, it would be the superintendent and the school board when that child does not cross the stage for graduation. Frankly, who do you want to be responsible for accurate information? Anybody who has worked for a company of any size, company policy will come from one person or one place that has a voice for all the rules and regulations for working there.

This, indeed, is a reaction to the Smarter Balanced exam. We have taken care of that in another piece of legislation. We have done away with the MOU between Maine and Smarter Balanced, but I would implore not to get us in between the school boards and their jobs. Mr. President, thank you very much for listening.

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

Senator **MILLETT:** Thank you, Mr. President. I respectfully disagree with the good Senator from Hancock. This bill actually hopes to clarify. It is, indeed, confusing; federal and state rules around testing. It attempts to actually put one source, with the Department of Education, for districts to refer to, to make sure that everybody is on the same page, and that everybody is getting the same information. As it stands right now, our districts across the state of Maine are in total disarray and confusion and are taking extremely different approaches. One experience in one

district is like night and day with a district from another place in Maine. This bill actually hopes to eliminate confusion around the federal law on testing. It does not stand in between the school boards and their districts. It provides a resource for them to refer to, to make sure that they have the right information in order to address this still controversial area around public education. Yes, we have dealt with Smarter Balanced, but I'm afraid the horse is out of the barn. Testing has risen to a level of controversy that I'm not convinced is going to disappear with the disappearance of Smarter Balanced. We need to make sure that our administrators and our teachers have the right information to be able to handle this there on the front lines. Thank you.

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

Senator **ALFOND:** Thank you, Mr. President. Just listening to the debate, ladies and gentlemen of the Senate, I think of something that the good Senator from Kennebec often says; when you think about all the facts here it's pretty hard to figure it out. You've got the good Senator from Hancock saying one thing. The good Senator from Cumberland is saying another. We're probably going to be somewhere in the middle. We can't all be over to the Senator from Hancock and we all won't be with the Senator from Cumberland, as much as it is hard for me to say that. If we are going to meet in the middle here, who are we going to stand on the side of when we take this vote? For me, it's a pretty easy decision. I want parents to be in charge of their child's education. As a young, young parent, whose children aren't in school yet, I want to have that to be clear. I want it to be concise. I want to be in charge of my son's and daughter's decisions. When I make this vote, ladies and gentlemen of the Senate, I'm going to reject the motion on the Floor. Thank you, Mr. President.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#153)

YEAS: Senators: CUSHING, EDGECOMB, KATZ, LANGLEY, MCCORMICK, ROSEN, THIBODEAU, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BAKER, BRAKEY, BREEN, BURNS, COLLINS, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, SAVIELLO, VALENTINO, VOLK

11 Senators having voted in the affirmative and 24 Senators having voted in the negative, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

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

READ ONCE.

Committee Amendment "A" (H-295) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow Secondary Schools To Grant Certificates of Academic Proficiency" H.P. 587 L.D. 853

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-294).**

Signed:

Senators:
 LANGLEY of Hancock
 EDGECOMB of Aroostook
 MILLETT of Cumberland

Representatives:
 KORNFIELD of Bangor
 DAUGHTRY of Brunswick
 FARNSWORTH of Portland
 HUBBELL of Bar Harbor
 POULIOT of Augusta
 STEARNS of Guilford
 TIPPING-SPITZ of Orono

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

Signed:

Representatives:
 MAKER of Calais
 McCLELLAN of Raymond
 PIERCE of Falmouth

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-294).**

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-294) **READ** and **ADOPTED**, in concurrence.

Senate at Ease.

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

On motion by Senator **CUSHING** of Penobscot, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-294), in concurrence.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

READ ONCE.

Committee Amendment "A" (H-294) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Establish the Municipal Gigabit Broadband Network Access Fund"

H.P. 818 L.D. 1185

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-288)**.

Signed:

Senators:
WOODSOME of York
HILL of York
MASON of Androscoggin

Representatives:

DION of Portland
BABBIDGE of Kennebunk
BEAVERS of South Berwick
DeCHANT of Bath
GROHMAN of Biddeford
HIGGINS of Dover-Foxcroft
O'CONNOR of Berwick
WADSWORTH of Hiram

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-289)**.

Signed:

Representatives:

DUNPHY of Embden
RYKERSON of Kittery

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-288)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-288)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Align the Federal Affordable Care Act's Health Care Coverage Opportunities and Hospital Charity Care"

H.P. 237 L.D. 343

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" (H-260)**.

Signed:

Senators:

BRAKEY of Androscoggin
McCORMICK of Kennebec

Representatives:

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

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

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT**
the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-**
CONCURRENCE.

On motion by Senator **CUSHING** of Penobscot, **TABLED** until
Later in Today's Session, pending the motion by Senator
BRAKEY of Androscoggin to **ACCEPT** the Minority **OUGHT TO**
PASS AS AMENDED Report, in **NON-CONCURRENCE**.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN**
SERVICES on Bill "An Act To Require Pharmacies To Provide
Disposal Receptacles for Used Hypodermic Apparatuses"
H.P. 315 L.D. 476

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

Signed:

Senators:

BRAKEY of Androscoggin
HASKELL of Cumberland
McCORMICK of Kennebec

Representatives:

GATTINE of Westbrook
HAMANN of South Portland
HYMANSON of York
MALABY of Hancock
PETERSON of Rumford
SANDERSON of Chelsea
VACHON of Scarborough

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

Signed:

Representatives:

BURSTEIN of Lincolnville
HEAD of Bethel
STUCKEY of Portland

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

Reports **READ**.

On motion by Senator **BRAKEY** of Androscoggin, 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 Improve Child Care in the State"
H.P. 674 L.D. 977

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (H-287).

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 Not To Pass**.

Signed:

Senators:

BRAKEY of Androscoggin
McCORMICK of Kennebec

Representatives:

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

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-287).

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT**
the Minority **OUGHT NOT TO PASS** Report, in **NON-**
CONCURRENCE.

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. Ladies and gentlemen of the Senate, I urge you to reject the pending motion so that we can go on to talk about the value of early childcare in the state. Comprehensive early childcare and education is essential for preparing Maine's children, all of Maine's children, for their future. Our understanding of child development has really changed over the last few years. We now know that much of what a child will become is defined as early as age 3. The quality experiences and variety of stimulus and support kids receive shapes them in permanent ways that impact them throughout their lives. Maine has a childcare subsidy program that's funded, in part, with federal dollars. That allows low income working parents to access vouchers to help pay for the cost of childcare. It helps parents get into and stay in the workforce, something we all want, while providing quality childcare for their children. Childcare is expensive, averaging more than \$150 a week, and you're not talking about the variations from one part of the state to the other. Vouchers help families make those ends meet.

The benefit of quality childcare extends far beyond simply having a place for the children to be during the week. Quality childcare assists children in learning and development and works in ways that benefit them throughout their lives. As children do better, Maine will do better. In January of 2012 the Maine Chamber of Commerce and the Maine Development Foundation released a report which was entitled *Making Maine Work, Investment in Young Children*, real economic development. The major recommendation to this report were, and understand who this is coming from, that Maine must improve access to quality early care and education; that Maine people must understand the benefits of early childhood investment; and quality early childhood care and education require adequate funding and resources. We talk a lot inside and outside of this Chamber on the importance of building a strong workforce for stronger economic development and a stronger economic future. This report acknowledges that and stated, "One strategy that can address these shortcomings and move the needle forward is a focused investment plan in high quality early childhood development." We need strong output. We need strong inputs. Recently Dr. Philip Trostel, an economist at the University of Maine, set out to determine just how much better. He concluded that a comprehensive early childhood system would provide economic benefits to Maine, including lower special ed costs, lower juvenile and adult corrections costs, savings from lower rates of grade retention, reduced public assistance during a child's lifetime through Medicaid, SSI, and other assistance, increased tax revenues due to great educational attainment and higher lifetime earnings. He concluded that the total lifetime fiscal benefit of such a system would be \$125,400 per child. I don't know how you figure those exact numbers, but that's what Dr. Trostel is for, he understands that. That is five times greater than the initial fiscal cost. That's a 5-1 ROI. There isn't a company that wouldn't be delighted with a 5-1 ROI.

Unfortunately, recent cuts mean that Maine is not budgeting enough to fully draw down the funds. Currently, about 2,500 kids are participating in the program. Sounds like a lot, but we estimate that there are about 50,000 kids who are eligible. If we could simply, as this bill does, return the block grant funding to its prior levels that will allow more Maine working families to access

vouchers and would allow Maine to draw down an additional \$3 million in federal matching funds. We need to make this investment. This will allow more children to cope with life's challenges and parents remain in the workforce. That's the benefit now. That's the short-term benefit. Even more important, it helps children be more productive adults for decades to come. That's an investment we have to make and an opportunity we can't afford to squander. Thank you, Mr. President.

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

Senator **BRAKEY:** Thank you, Mr. President. I'll keep my comments very brief. I rise today to support the Ought Not to Pass motion on L.D. 977. This bill proposes spending \$2 million in additional state taxpayer money on childcare. The question is: why? In committee, we were not presented with an argument of unmet need for childcare. In fact, according to the Department of Health and Human Services, 100% of individuals who apply for childcare assistance and qualify for childcare assistance receive that assistance. There is no wait list. The argument for this legislation was not unmet need, but more federal money. If we spend \$2 million in state taxpayer money the argument goes that we can get upwards of \$3 million more in federal taxpayer money. More federal money alone is not a good enough reason to spend state taxpayer money and I hope my colleagues will join me in voting Ought Not to Pass on this bill. Thank you very much, Mr. President.

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

Senator **MILLETT:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the motion before us. According to the Maine Policy Review Report, Workforce Skills for Innovation Economy, more than one-third of projected new jobs between 2010 and 2020 will require post-secondary credentials and advanced skills. In addition to filling demands generated from growth, Maine employers face the impending retirements over the same period of thousands of experienced, credentialed, and skilled workers. Maine will need thousands of scientists, engineers, computer specialists, management specialists, and marketing experts to move this economy forward. In order to help ensure Maine meets these requirements, the Education Committee is working to improve higher education affordability and completion, strengthening our K-12 education programs, and, most recently, build our public pre-K efforts to help ensure more of our children are ready for school. Each of these is inextricably linked. In fact, we, in the Education Committee, are acutely aware of the growing brain science and its relevance to understanding the seemingly intractable achievement gap which limits Maine's ability to grow its workforce to its full potential. We are starting to move in the right direction, but we know that support for our children and families must begin earlier than through the K-12 programming if we are to succeed in building a credentialed workforce. It is essential that we address the whole child, including the cognitive, social, emotional, and health needs and minimize exposure to toxic experiences. In addition, programming to help educate expecting and new parents on raising children and planning for their family's future, helping to sustain stable and healthy home environments for their children, are essential. This all-inclusive approach better prepares children

for school and, thereby, improves their lifetime educational attainment. We know that investing early, consistently, and comprehensively in our children translates into long-term economic benefits for our state. We have received testimony in support of early childhood programming from our business community, from our law enforcement community, and from our military in support of these programs. I urge you to vote in opposition to this motion.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#154)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Create Transparency with Regard to Large Employers in the State with Workforce Members Who Receive Public Benefits"

H.P. 902 L.D. 1324

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-282)**.

Signed:

Senator:
HASKELL of Cumberland

Representatives:
GATTINE of Westbrook
BURSTEIN of Lincolnville
HAMANN of South Portland

HEAD of Bethel
PETERSON of Rumford
STUCKEY of Portland

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

Signed:

Senators:
BRAKEY of Androscoggin
MCCORMICK of Kennebec

Representatives:
MALABY of Hancock
SANDERSON of Chelsea
VACHON of Scarborough

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-282)**.

Reports **READ**.

On motion by Senator **BRAKEY** of Androscoggin, the Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Office of the Inspector General in the Department of Health and Human Services"
H.P. 918 L.D. 1349

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

Signed:

Senators:
BRAKEY of Androscoggin
HASKELL of Cumberland
MCCORMICK of Kennebec

Representatives:
GATTINE of Westbrook
HEAD of Bethel
HYMANSON of York
MALABY of Hancock
PETERSON of Rumford
SANDERSON of Chelsea
VACHON of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-283)**.

Signed:

Representatives:

BURSTEIN of Lincolnville
HAMANN of South Portland
STUCKEY of Portland

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

Reports **READ**.

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

Divided Report

The Majority of the Committee on **JUDICIARY** on RESOLUTION,
Proposing an Amendment to the Constitution of Maine To Prohibit
the Denial of Equal Rights Based on the Sex of an Individual
H.P. 408 L.D. 584

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (H-284).

Signed:

Senator:

JOHNSON of Lincoln

Representatives:

HOBBINS of Saco
EVANGELOS of Friendship
McCREIGHT of Harpswell
MONAGHAN of Cape Elizabeth
MOONEN of Portland
WARREN of Hallowell

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

Signed:

Senators:

BURNS of Washington
VOLK of Cumberland

Representatives:

GINZLER of Bridgton
GUERIN of Glenburn
HERRICK of Paris
SHERMAN of Hodgdon

Comes from the House with the Majority **OUGHT TO PASS AS**
AMENDED Report **READ** and **ACCEPTED** and the
RESOLUTION **PASSED TO BE ENGROSSED AS AMENDED**
BY COMMITTEE AMENDMENT "A" (H-284).

Reports **READ**.

On motion by Senator **BURNS** of Washington, **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 Bill "An Act To Help Older Adults Age in Place
through Comprehensive Planning"

H.P. 628 L.D. 909

Reported that the same **Ought to Pass as Amended by**
Committee Amendment "A" (H-299).

Signed:

Senators:

WHITTEMORE of Somerset
LIBBY of Androscoggin
WILLETTE of Aroostook

Representatives:

MARTIN of Sinclair
BABBIDGE of Kennebunk
BEEBE-CENTER of Rockland
BRYANT of Windham
DOORE of Augusta
EVANGELOS of Friendship
PICKETT of Dixfield

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

Signed:

Representatives:

GREENWOOD of Wales
TUELL of East Machias
TURNER of Burlington

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-299).

Reports **READ**.

On motion by Senator **WHITTEMORE** of Somerset, **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 Bill "An Act To Ensure Proper Adoption of
Rules by All Departments, Agencies and Boards"

H.P. 694 L.D. 999

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

Signed:

Senator:

LIBBY of Androscoggin

Representatives:

MARTIN of Sinclair
BABBDIGE of Kennebunk
BEEBE-CENTER of Rockland
BRYANT of Windham
DOORE of Augusta
EVANGELOS of Friendship

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-300)**.

Signed:

Senators:

WHITTEMORE of Somerset
WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales
PICKETT of Dixfield
TUELL of East Machias
TURNER of Burlington

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

Reports **READ**.

Senator **WHITTEMORE** of Somerset moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

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

On motion by Senator **CUSHING** of Penobscot, **TABLED** until Later in Today's Session, pending the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Improve the Maine Administrative Procedure Act"

H.P. 922 L.D. 1354

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

Signed:

Senator:

LIBBY of Androscoggin

Representatives:

MARTIN of Sinclair
BABBDIGE of Kennebunk
BEEBE-CENTER of Rockland
BRYANT of Windham
DOORE of Augusta
EVANGELOS of Friendship

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-301)**.

Signed:

Senators:

WHITTEMORE of Somerset
WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales
PICKETT of Dixfield
TUELL of East Machias
TURNER of Burlington

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

Reports **READ**.

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

Senate

Ought to Pass As Amended

Senator **BRAKEY** for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Destruction of Certain Medical Records and Allow Access to Certain Death Records" S.P. 266 L.D. 736

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-199)**.

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

READ ONCE.

Committee Amendment "A" (S-199) **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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Support School Nutrition"
S.P. 460 L.D. 1285

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-196)**.

Signed:

Senator:

MILLETT of Cumberland

Representatives:

KORNFELD of Bangor
DAUGHTRY of Brunswick
FARNSWORTH of Portland
HUBBELL of Bar Harbor
PIERCE of Falmouth
TIPPING-SPITZ of Orono

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

Signed:

Senators:

LANGLEY of Hancock
EDGECOMB of Aroostook

Representatives:

MAKER of Calais
McCLELLAN of Raymond
POULIOT of Augusta
STEARNS of Guilford

Reports **READ**.

Senator **LANGLEY** of Hancock moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

On motion by Senator **MILLETT** 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 Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, this bill is the school food service language from one that we considered in a previous Legislature and passed here with a vote of 33-0. The bill will help schools improve the quality nutrition and healthiness of school food. It does that in two ways. It increases the readiness of school district's food service personnel to make local foods work by learning from what other schools that are successful in this regard are doing, and provides greater local produce fund matching dollars to schools that send food service personnel to local

training to help them afford more local produce and put those skills into practice. Some Maine school food service programs are already successful in using local produce and fresher foods in ways that increase nutrition, that students like, and which are cost effective. Other schools need to learn more scratch cooking skills and/or need to learn how other schools are achieving success. The bill uses competitive grants to fund six regional training programs which build skills, provides guidance, and encourages collaboration, as well as a sense of community, statewide among food service personnel. The Department of Education is to seek federal grant monies to add to the Department's local produce fund and provide training grants. The fund can accept contributions from hospitals and other sources. During questioning by the Education and Cultural Affairs Committee, it was learned that, as of this year, the Department has sufficient school nutrition staff to oversee such a program and was used to provide training such as this several years ago. It was also learned that one of the challenges getting schools to send staff to training has been the school's cost to pay a substitute so food service staff can attend. This bill, by providing additional local produce fund matching dollars, can save schools money on their food budget to cover the cost of a substitute. Problem solved.

I'll never forget an exchange between Walter Beasley and then-Representative Helen Rankin about L.D. 1431, talking about this same program. Helen is also a retired school nutrition director who did not see the need for this kind of training until Walter Beasley informed her that many schools no longer prepare food from scratch and some personnel lack those skills. Helen's response, "Well, why didn't you say so?" It was the first indication of her strong support for the bill thereafter. L.D. 1285 is good for Maine's natural resource industries and Maine's economy. It's good for the capacity of school food services to use local foods while improving skills and increasing support for food service personnel. It makes practical the increased use of local foods in meeting the nutritional needs of Maine's school children with quality foods. I can read the tea leaves well enough to know that the Governor's Office has voiced opposition to this bill, the Chief Executive, excuse me. I'm asking you to set that aside and make your own decision whether you will help schools feed our children healthier food or vote against our children. I'm asking you to do what is right and vote with me in opposition to the pending motion. Thank you.

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

Senator **LANGLEY:** Thank you, Mr. President. I rise to ask you to support the motion on the Floor, but I also rise to support the intent of this bill. Many of you know I taught culinary arts and nutrition for almost 30 years. I ran quite a number of programs for my local district in training school food service personnel. I also taught the Eastern Maine Community College 90 hour courses for training school food service personnel. There are lots of good things in this bill. Local food training programs for public school food personnel, facilitate the use of local food hubs, expanding the use of local foods, and directs the Department to develop and post a position description for school food service program personnel on the website and then to develop an annual competitive skill orientated school food service recognition to emphasize creative and effective use of local foods. All really good initiatives. My only issue, and reason for not supporting this, is that it does not provide the funding for any of these

initiatives. Frankly, that's my only opposition to this and at some point in time I think we will make a way to be able to address more of these needs as funding arises. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you, Mr. President. I certainly can't argue with most of that. I feel strongly this is a good program and it would be conducted well by the Department of Education were funding available. In acknowledgement of the issue that was raised, this bill doesn't require the Department to conduct these activities if the funding is not available. It does seek funding, and they do have more personnel to do that, to apply for federal grants. That is one likely source. In recognition of another fact that perhaps many of you aren't aware of, hospitals, under the Affordable Care Act, are expected to take more responsibility and work with other groups in the community to increase community health. They actually have tax advantages in making certain levels of contribution in ways that do that. This is an excellent way for hospitals to help increase community health by seeing that there is better opportunity and ability within schools to feed children nutritious meals. I hope to have your support. This is not an obligation to the Department for things that are unfunded, but it does have a couple of good ways and opportunities in which the funding could be provided and these, agreeably, excellent ideas could move forward. Thank you, Mr. President.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#155)

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, 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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Integrate the State's General Assistance and Temporary Assistance for Needy Families Programs"

S.P. 136 L.D. 368

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-200)**.

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 **JUDICIARY** on Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"

S.P. 31 L.D. 83

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

Signed:

Senator:

JOHNSON of Lincoln

Representatives:

HOBBINS of Saco
EVANGELOS of Friendship
HERRICK of Paris
McCREIGHT of Harpswell
MONAGHAN of Cape Elizabeth
MOONEN of Portland
WARREN of Hallowell

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-197).**

Signed:

Senators:

BURNS of Washington
VOLK of Cumberland

Representatives:

GINZLER of Bridgton
GUERIN of Glenburn
SHERMAN of Hodgdon

Reports **READ.**

Senator **BURNS** of Washington 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 Afford Public Employers Flexibility To Achieve Efficiency and Quality in Management"

S.P. 350 L.D. 1010

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-201).**

Signed:

Senators:

VOLK of Cumberland
CUSHING of Penobscot

Representatives:

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

Reports **READ.**

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

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Expand Opportunities for Economic Development in Maine" S.P. 497 L.D. 1364

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-198).**

Signed:

Senators:

VOLK of Cumberland
CUSHING of Penobscot

Representatives:

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

Reports **READ**.

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

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

ENACTORS

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

Emergency Measure

An Act To Ensure That Collection Facilities Can Participate in the Architectural Paint Stewardship Program

S.P. 370 L.D. 1044
(C "A" S-157)

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

Emergency Resolve

Resolve, To Establish the Commission To Study Difficult-to-place Patients

H.P. 113 L.D. 155
(C "A" H-249)

On motion by Senator **CUSHING** of Penobscot, placed on the **SPECIAL STUDY TABLE**, pending **FINAL PASSAGE**, in concurrence.

Acts

An Act To Assist Persons with Breast Cancer

H.P. 246 L.D. 359
(S "B" S-144)

An Act To Eliminate the Broadband Sustainability Fee

H.P. 304 L.D. 465
(C "A" H-219)

An Act To Amend the Laws Governing the Membership of the Maine Commission on Domestic and Sexual Abuse

H.P. 398 L.D. 574

An Act To Limit the Amount That May Be Retained on Construction Contracts

H.P. 510 L.D. 757
(C "A" H-238)

An Act To Expand Public Access to Epinephrine Autoinjectors

H.P. 776 L.D. 1125
(C "A" H-250)

An Act To Prohibit Certain Payments with Respect to an Adoption

H.P. 812 L.D. 1179
(C "A" H-241)

An Act To Amend the Election Laws

H.P. 907 L.D. 1335
(C "A" H-251)

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

Ordered sent down forthwith.

An Act To Establish a State Educational Medicaid Officer

H.P. 406 L.D. 582
(C "A" H-227)

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

An Act To Reduce Student Loan Debt through an Expansion of the Educational Opportunity Tax Credit

H.P. 617 L.D. 898
(C "A" H-229)

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

Resolves

Resolve, To Review and Report Recommendations on the Safety of Motorized Farm Rides Provided for a Fee to the Public

H.P. 726 L.D. 1057
(C "A" H-234)

Resolve, To Change the Requirements for Nursing Services in Home Health Care

S.P. 398 L.D. 1129
(C "A" S-158)

FINALLY PASSED and, having been signed by the President Pro Tempore, were presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Off Record Remarks

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

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Ensure Proper Adoption of Rules by All Departments, Agencies and Boards"
H.P. 694 L.D. 999

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-300)** (6 members)

Tabled - June 8, 2015, by Senator **CUSHING** of Penobscot

Pending - motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE** (Roll Call Ordered)

(In House, June 5, 2015, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 8, 2015, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#156)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-300) **READ** and **ADOPTED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/14/15) matter:

JOINT ORDER - Joint Study Order Establishing a Work Group To Plan the Transition to Funding Fifty-five Percent of Education Costs and One Hundred Percent of Special Education Costs as Mandated by the Voters at Referendum
S.P. 529

Tabled - May 14, 2015, by Senator **MASON** of Androscoggin

Pending - **PASSAGE**

(In Senate, May 14, 2015, **READ**.)

On motion by Senator **VOLK** of Cumberland, Senate Amendment "A" (S-208) **READ**.

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

Senator **JOHNSON**: Thank you, Mr. President. Given that the EPS formula is what determines the total cost of education and that the funding of the State's share is determined by this Legislature through its Appropriations budget deliberations, given that the members necessary to determine how we derive the funding, the sources of revenue, necessary to meet the State's obligation of 55% of education costs and 100% of special education costs as mandated by voters, the other parties being added by this amendment are not necessary to make such plans. I would ask whether this amendment is Germane to the order.

Senator **JOHNSON** of Lincoln rose to a **POINT OF ORDER** as to whether the Senate Amendment "A" (S-208) was Germane to the Joint Order.

Senate at Ease.

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

The Chair **RULED SENATE AMENDMENT "A" (S-208) WAS GERMANE TO THE JOINT ORDER.**

On motion by Senator **CUSHING** of Penobscot, **TABLED** until Later in Today's Session, pending motion by Senator **VOLK** of Cumberland to **ADOPT** Senate Amendment "A" (S-208).

The Chair laid before the Senate the following Tabled and Later Assigned (5/21/15) matter:

HOUSE REPORT - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Align Maine's School Marketing Law with Current Federal Food Standards"
H.P. 680 L.D. 985

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-157)**

Tabled - May 21, 2015, by Senator **KATZ** of Kennebec

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

(In House, May 20, 2015, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-157).**)

(In Senate, May 21, 2015, Report **READ.**)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-157) **READ.**

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-207) to Committee Amendment "A" (H-157) **READ.**

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

Senator **KATZ:** Thank you, Mr. President. This amendment, which is agreed to by the sponsor, simply makes it clear, despite the fact that we can't have certain sodas and other foods in school or on school grounds, and affirms that schools can participate in and receive funding from food and beverage reward programs like box tops or beverage tops programs because those programs involve purchases made outside of the school day. Again, my understanding is that the sponsor and all the stakeholders who participated at the public hearing on this bill are in agreement with this amendment. Thank you, Mr. President.

On motion by Senator **KATZ** of Kennebec, Senate Amendment "A" (S-207) to Committee Amendment "A" (H-157) **ADOPTED.**

Committee Amendment "A" (H-157) as Amended by Senate Amendment "A" (S-207) 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-157) AS AMENDED BY SENATE AMENDMENT "A" (S-207)** thereto, in **NON-CONCURRENCE.**

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.

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

The Chair laid before the Senate the following Tabled and Later Assigned (5/27/15) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Promote Equity in the Joint and Several Liability Law in Maine"

S.P. 163 L.D. 434

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-125)** (6 members)

Tabled - May 27, 2015, by Senator **BURNS** of Washington

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

(In Senate, May 27, 2015, Reports **READ.**)

On motion by Senator **JOHNSON** of Lincoln, 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 Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. This is a bill before us that we've had logging companies and others testify on and we need it because insurance rates in Maine, they claim, are higher because of Maine's joint and several liability law. I have to say that when asked to produce information about what our rates are compared to New Hampshire, for instance, whose law if different from ours, right next to us here in New England, they could not provide any evidence that there were higher rates here in Maine than there are in New Hampshire. In fact, Maine enjoys generally lower rates because of the determining of those insurance costs are actually a safety record on Maine roads, the number of accidents that occur on our roads compared to other states, not the presence or difference in joint and several liability laws. We heard from Maine trial lawyers that this would be the most harmful bill in the last decade. It would hurt thousands of

Mainers who are injured, maimed, or disabled and the survivors of those killed by the negligence of others. Absence of proof that the harm people felt was occurring, is actually occurring, and the indications of what harm would come from those dealing with such cases in the legal profession to the true victims being made even greater victims by a change in the law such as this, I cannot support the pending motion. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today in support of the pending motion in regards to L.D. 434. Let me share with you, briefly, under current Maine law if two or more defendants are found to be liable to a plaintiff for the same injury the defendants are jointly and severally liable for the full amount of the damages. The concept is as difficult for some of us to understand in that form as it is for some of us to say. In as current Maine law pertains to auto liability, if a commercial driver is only 1%, if they are found to be 1%, at fault for an accident that driver and the company that they represent can be 100% liable for the damages to an injured plaintiff regardless of fault. The risk to any logging contractor or those with a commercial fleet can become exorbitant.

Maine is one of only eight states in the country with a joint and several liability law. Forty-two other states have proportional liability, similar to what the law provides for in New Hampshire, which my colleague from Lincoln County just referenced. This is what I consider, and many other consider, fair and equitable. In the case of a logging company or a commercial operator, the commercial company becomes an instantaneous target for recovery of damages as a result of the current law. All that a plaintiff's attorney needs to do is to prove that the commercial carrier had the 1% liability. Trial lawyers will ultimately go after whichever individuals in the suit have the deepest pockets. A \$250,000 fiscal damage accident, damage to the truck and trailer and other vehicle, with no injury to the truck driver, can easily escalate to a claim of over \$1 million by a passenger plaintiff. As a result of the risk for higher claims, the commercial company must pay higher automotive liability premiums to cover that risk or, as some of us have seen in certain insurance company's commercials, if you look like the person than you are similar to that person and you may absorb the liabilities for what some of those poor performers in that category do. The insurance underwriting company must maintain higher reserves to cover potential risk over a longer period of time when there is a potential claim under investigation or litigation. As a result, all the companies in the pool will contribute to the reserve account as well as the claim. This is similar to how hospitals must deal with someone who doesn't have health insurance; all other insured end up paying some of the cost of the greatest risk.

I ask you, ladies and gentlemen, to recognize that is a matter of equity or fairness. We're not asking people who are injured in accidents where there is fault of a significant nature on the individuals to be exempted. We're asking you to consider what the impact is on those who are being unjustly brought into this because they happen to have the better insurance policy or the deeper pockets and liability. Some people in your areas of constituency, small business owners who have large fleets on the road, are at risk of losing their life's work and their assets in some of these cases. I ask you to consider what that means to the hardworking small business owners who employ our friends and

neighbors if we don't give some relief through a simple and equitable format such as the current legislation before you. I ask you to follow my light and thank you for your time and consideration.

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

Senator **JOHNSON:** Thank you, Mr. President. As a point of correction regarding what states have, our analyst did some work, some digging on this, and came up with some information on joint and several listing by state. In 2013, pure joint and several, there are eight states. Pure several, there are eight states. Ones having variable liability, there are 28 states. A hybrid arrangement is six. The variable liability is described as where the type of liability turns on some aspect of the plaintiff's cause of action, such as joint and several liability being triggered only for intentional and environmental torts or for certain percentage of fault. I want to point out that fairness has been raised and the presumption that an entity which only 1% at fault will end up paying 100% hinges on a lot of things. It actually comes down to both what the ability of the various parties is to pay and the decision by the judge as to whether the reasonableness of this. What would be the least fair thing, if this bill passes, is that we could have people injured through the actions of others who would not recover damages for the loss of their ability to live their lives normally. That, truly, would be unfair. I ask that you consider that Maine's law, which has been in place for some time, attempts to achieve balance between fairness for those found at fault and fairness for those that are harmed by the accidents. Every accident is a tragedy and it's not a question of whether someone will lose and people will bear cost but whether in doing so those costs will fall where it will do the most harm, those who both their life and the cost of trying to put those lives back together in some semblance are harmed by a ruling of the courts. Our present law is a reasonable balance of those priorities. The worst harm we could do, as a society, is to leave the person who is harmed by the accident once again harmed by the people who caused it not helping them recover the cost of whatever amount of their livelihood and their life they are able to put back together. Again, I would ask you to join me in opposing the current motion. Thank you.

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 would like to just speak briefly in support of the motion before us. As you heard, this was a very complicated bill that came before the Judiciary Committee and we listened at length to proponents and opponents of the law. What it basically came down to was those who were engaged in litigation versus those who have been the subject to that litigation, if you will, and even though the good Senator from Lincoln, Senator Johnson, suggests that this fairness issue is one on behalf of the victim it's also a fairness issue on behalf of those that have to bear an unproportioned cost of their liability in a terrible situation. We heard from litigants that if we pass such a bill that it was going to be horrific and terrible for the state of Maine. That has not been the case in other states that have similar concepts as being proposed here. To probably oversimplify what is at stake here, joint and several liability, and I'm

going to quote, "Is for someone to sue for and recover the full amount of recoverable damages from any defendant, regardless of a particular defendant's percentage share of the fault." Do any of us want to be in that situation where we are at a very minimum percentage at fault and yet we have to bear the burden of the entire amount that is necessary to make someone whole? We all agree, I think, in this Chamber that it's necessary and applaudable to try to make people whole as a result of accidents that they were involved in, but who does that burden go on? It should go on those who are primarily responsible, not those who bear 1%, 5%, or 10% of the responsibility just because the other person who is at fault may not have the coverage or may not have the resources.

Another issue I want to respond to, I think it was just testified to, is how the state of Maine lies in regards to other states. I see us as an outlier. As it was said, only eight states currently have pure and joint several liability out of the 50 states. Again, as the good Senator said, 28 of those states have variable liability and only eight states have pure several liability. We are still an outlier at this point. The world has not come to an end in those other states. It will not here, but it will, with the passage of this bill, make it fairer for those that are caught up in a situation where they are not at fault but they are obligated to pay all of the damages. Thank you very much, Mr. President.

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

Senator **CUSHING:** Thank you, Mr. President. Thank you, ladies and gentlemen, for your indulgence. I appreciate greatly the comments of my friend from Washington County in regards to this and I commend he and the Senator from Lincoln and the Senator from Cumberland for the enormous effort they put into all the bills. I know that these are complicated and for us, as citizen legislators, it's always difficult. What I would like to point out is just a couple of items here. To me, this is not an issue about lowering insurance rates. It's an issue of fairness for those who are responsible for their own negligence. While I concur that we should take care of individuals who are injured in an accident that may not be their fault, why should we penalize those who may be drawn into an accident when it is not directly their fault, but, because of the prowess of their representative or their insurance company's representative, they can claim that this individual has at least 1% fault in that action? I think we need to send a message here that there are tragedies that take place. Maine is a state where we have weather conditions, we have instances that cause very unfortunate acts, some of which we can't always directly determine who was the primary party at fault. That is why we have the courts. They do the best that they can. We have, I believe, tipped the balance too far in requiring that people who may be responsible and having the best coverage, or tragically may have more significant assets because they have grown their business to provide jobs to working Mainers, put that asset and their life's work at risk because of an unfortunate incident that their personnel, their property, trucks, and vehicles, may not have any ability to avoid. I ask you to follow my light in voting for a more equitable and reasonable manner in which we apply this in our state, as so many of our colleagues in other states have. I thank you for your indulgence.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Washington, Senator Burns 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 (#157)

YEAS: Senators: BRAKEY, BURNS, COLLINS, CUSHING, DAVIS, DIAMOND, DILL, EDGEComb, LANGLEY, MIRAMANT, ROSEN, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BAKER, BREEN, CYRWAY, DUTREMBLE, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LIBBY, MCCORMICK, MILLETT, PATRICK, SAVIELLO, VALENTINO, WOODSOME

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BURNS** of Washington to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/29/15) matter:

SENATE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require That 5 Percent of Signatures on a Direct Initiative of Legislation Come from Each County

S.P. 272 L.D. 742

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-129)** (10 members)

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

Tabled - May 29, 2015, by Senator **CYRWAY** of Kennebec

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

(In Senate, May 29, 2015, Reports **READ**.)

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

Senate at Ease.

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

On motion by Senator **LIBBY** of York, the Senate
RECONSIDERED whereby it **ACCEPTED** the Majority **OUGHT
TO PASS AS AMENDED** Report.

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

THE PRESIDENT PRO TEMPORE: The Chair recognizes the
Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. This, basically,
the Resolution, the title on this has changed. It's basically
proposing an amendment to the Constitution of Maine to require
that signatures on a direct initiative of legislation come from each
Congressional District. Basically, in summary on this, this
Resolution proposes to amend the Constitution of Maine to
require that the number of signatures on a petition to directly
initiate legislation be from the voters in each of the two
Congressional Districts and an amount not less than 10% of the
total votes for Governor cast in that Congressional District in the
previous gubernatorial election. This is basically by population
and divides the state into two parts. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The pending question
before the Senate is the motion by the Senator from
Androscoggin, Senator Libby to Reconsider Acceptance of 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 (#158)

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

NAYS: Senators: GERZOFISKY, LIBBY, PATRICK

32 Senators having voted in the affirmative and 3 Senators
having voted in the negative, the motion by Senator **CYRWAY** of
Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS
AMENDED** Report **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-129) **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.

The Chair laid before the Senate the following Tabled and Later
Assigned (6/1/15) matter:

HOUSE REPORTS - from the Committee on **LABOR,
COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**
on Bill "An Act To Improve Access to Treatments for Lyme
Disease"

H.P. 289 L.D. 422

Majority - **Ought to Pass as Amended by Committee
Amendment "A" (H-216)** (7 members)

Minority - **Ought to Pass as Amended by Committee
Amendment "B" (H-217)** (6 members)

Tabled - June 1, 2015, by Senator **VOLK** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 29, 2015, the Majority **OUGHT TO PASS AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-216)** Report
READ and **ACCEPTED** and the Bill **PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT
"A" (H-216).**)

(In Senate, June 1, 2015, Reports **READ**.)

Senator **VOLK** of Cumberland moved the Senate **ACCEPT** the
Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE
AMENDMENT "B" (H-217)** Report, in **NON-CONCURRENCE**.

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, this bill is about
'Houston, we have a problem.' What is the problem? The
problem is in Maine physicians can treat long-term Lyme with
antibiotics. The problem is that doctors are scared to death to do
that. One of the things I know is that, as Dennis Smith, Executive
Director of the Board of Licensure in Medicine says, "As you
know, the purpose of the Board of Licensure in Medicine is to
protect the public. It carries out this purpose, in part, by
investigating and correcting the medical practices of physicians

and physician's assistants who practice unprofessionally or incompletely." It is important to understand that Board closely follows emerging issues related to the provision of safe content and professional medical care for the people of Maine. The appropriate treatment of Lyme Disease is one such issue. To that I say poppycock. I think, Mr. President, that the Board has fell flat on its face. Eight years ago there was a bill put in for Lyme awareness. Senator Bryant from Oxford County; his brother, Mark, from Windham; and myself put in a Lyme awareness bill. It has been eight years since the medical community has at least been aware of Lyme Disease in Maine. What has been done? I asked the Board, "How many times have you discussed Lyme related issues in the Board?" Over the last five years they think five times. Three times had to do with disciplining doctors and one time was a general Lyme topic. Maine's CDC says that they estimate 1,300 cases per year in Maine, but the national CDC says it's ten times that, or 13,000 cases a year. That means in Maine there's around 1,083 per month. That means there are 271 per week. That means daily, every day, there are 39 cases of diagnosed Lyme, that's almost two every hour. What is our medical community doing? I believe they are burying their heads in the sand.

We had excellent testimony on both sides and I'm very thankful because I'm not a doctor and I don't appear to be. What I am is, I think, a rational adult who's willing to listen to all the testimony, especially from those whose lives are adversely affected. I've actually had family members. My sister, actually, had long-term Lyme and my personal physician, Dr. Theresa Royer MacKnight died of a Lyme related illness. Many people came and talked about the issues that they had and they talked about the inability to get treatment in Maine. It's awful funny, in New England you can go everywhere except for Maine to have treatment and what we're looking to do is defeat this motion, Mr. President, and move on to the other amendment and that will take care of the issue.

I just want to read just a couple of excerpts from a couple of people that verified that their doctors are scared to death. Victoria Delfino, she basically says, "This doctor said the best treatment for my case of late stage disseminated neurological Lyme Disease was long-term IV antibiotics, but would not provide this treatment for fear of losing his medical license and, consequently, his livelihood." They referred her to another Maine doctor who agreed that it was long-term Lyme and also would not provide long-term treatment for fear of losing their medical license. Both referred her to an out-of-state doctor. Sally Jordan said, "My PCP stated that he believed that Lyme bacteria was the culprit causing my symptoms but he couldn't treat me because his hands were tied and he had to follow the guidelines in fear that he may be sanctioned if he didn't." We had numerous accounts of people corroborating the fact that, I believe, the inaction of the Board has caused this hammer effect that doctors are scared of losing their livelihood. My doctor, I think, makes \$345,000 last time the report came out, and I'm very proud of him because he's one of the hardest working men I've ever met. If he was going to have to put his livelihood on the line for this same thing, I'm sure he would bail because who's going to give up their livelihood, something they've worked hard for. I know we have doctors that were educated in Harvard, Cornell, and Yale; some of the best doctors and colleges in the United States of America. Some of their colleagues work in New Hampshire, Vermont, Massachusetts, and Connecticut. Those same doctors are able to treat long-term Lyme the way we're looking to try to treat long-

term Lyme, to protect our doctors. Our Board, for some reason, being at the end of the food chain I guess, decided that it's not right for us.

The "B" report, this amendment, the Minority Report of the committee, replaces the bill with a Resolve that directs the Board of Licensure in Medicine, Board of Osteopathic Licensure, and the State Board of Nursing to notify their respective licensees that using nontraditional treatments for disease, including Lyme Disease, will not result in disciplinary actions solely based on the use of nontraditional treatment as long as the medical decision making and monitoring of the patient's reaction to the specific treatment and patient's informed consent to a specific treatment are documented in the patient's medical record.

It's really funny how they want to notify all their doctors that using nontraditional treatment for disease, which would be saying they could treat it with long-term antibiotics, is okay. Well, it's okay today. Where are they? Our committee we deal with an awful lot of professional boards and I actually have a little resentment to a lot of the boards because it seems like they keep their heads buried in the sand. It should never get to the point where it comes to the Legislature to have lay-people make decisions. I've said that in committee. Someone's going to have to make them when you have thousands upon thousands of people that seek medical treatment in the state of Maine and they are denied it for one reason, the doctors are scared of losing their license, and they've got to go out-of-state. We actually had testimony from a man from Topsham that says he was willing to bring in a Lyme clinic to Maine if we can change this law.

There's a difference between Report "A" and Report "B", and it's not huge. I really believe that Report "B" does not protect doctors the way they should be protected. Report "B" does not. Report "A" is the one that has permissive language. It's basically the same language that came from Massachusetts. That language would protect doctors for treating people with long-term Lyme. You think eight years ago the first Lyme awareness bill came through and here we are today still discussing whether or not to do this. Actually the Board, other than the three cases that they had and one of the cases was let off and the other case was dealt with. They basically said he had shoddy paperwork. The third case is still pending. The fifth one, I'm not sure because they didn't have any answer for that. What we need to do is we've got to take a look at providing that a licensed physician may prescribe, administer, or dispense long-term antibiotics therapy for therapeutic purposes to eliminate infection or control a patient's symptoms consistent with a clinical diagnosis of Lyme Disease. It requires the clinical diagnosis and treatment be documented in the patient's medical records by the prescribing licensed physician. That's what we've got to do, ladies and gentlemen. I would say I'll probably end it there for now because I'm sure I'm going to get up at least one or two more times. Ladies and gentlemen, please follow my light and vote against the pending motion. I will take a break for now. Thank you, Mr. President.

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

Senator **GRATWICK:** Thank you very much, Mr. President. Ladies and gentlemen and colleagues, the good Senator from Oxford is always a challenge to follow. Makes life interesting here. I wish to give you just a little bit of background about what we're talking about today with Lyme Disease. This is obviously

something of great concern. My suspicion is that we're going to be seeing bills come up every session for the next 20 years probably on this particular issue. I think we're got to at least have the right direction that we're going. Just some basic background. First of all, Lyme Disease is potentially a really nasty disease and I have to say that I have changed my patterns. I don't go out in the fields in shorts any more. I do tuck my long pants into my socks. I wear darker colored clothes. I would recommend everybody take Lyme seriously. I have to say that probably four or five years ago I did not take it particularly seriously. It seemed like it was down south. We didn't have to worry. Take it seriously. Number two, by in large, Lyme Disease is pretty simple. Probably 80% of people that get it, the tick gets engorged, you get antibiotics, you get treated, and you do pretty well. The difficulty is that group of people who have a more chronic form of it, it is very complex. Is it 10%, 20%, 50%, 3%? It's very hard because you just don't know the denominator in this one. A lot of the literature says it is probably roughly 20% and that's a significant number of people who could feel the consequences of this. Two things you should really know: is it the persistence of the bug? It's a little corkscrew, a little spiral key, that pierces your tissue. It can be in your heart, your brain, your lungs, nerves, etcetera. Is it the persistence of the bug or does it become an autoimmune disease? Needless to say, this is where I spent my last 40 years, dealing with autoimmune diseases. That is, if you make antiviral to the bug, you got rid of that, but then there are cross reactions to some other part of your body and you get these immune diseases, in which case antibiotics aren't going to do any good over here but they will help over here. Where you go from having got rid of the bug to having an autoimmune disease? It is very interesting.

Just as an aside, I did my rheumatology training in the 1970s and a guy who was in a class ahead of me in medical school, one year ahead, was a rheumatologist at Yale. Was sent out to investigate three cases of juvenile arthritis, kids with swollen knees in Old Lyme, Connecticut. They thought they were going to find out what was causing juvenile arthritis. It's a nasty disease. Dr. Steere, he's the guy who tracked it down. He's been doing a lot of work since then on Lyme Disease. I've been in this since 1977 and I've had some experience with it.

The problem really is patients don't believe they are being well treated at this time, they are not being listened to. If there is anything you learn as a physician it is that you've got to listen to your patients. There was mention made by the good Senator from Oxford that doctors are "scared to death." I have to say I actual have never met anybody amongst all the people that were referred to me who are scared to death of treatment. If you do it well and you document what you've done and you talk to your patients, that's life. The idea that we can hype it up to being scared to death, I think, is inappropriate.

I think I would strongly recommend that people go along with Amendment "B". It's not perfect but is certainly better than Amendment "A". There are several things we should realize. One, this whole thing is really not needed. Right now you can treat Lyme Disease if you have the proper license and you can make the proper diagnosis, etcetera. You can treat Lyme Disease for 28 days, a pretty reasonable protocol. I've treated people for up to six months. Is there any protocol? The answer is no. In my clinical judgment, it was appropriate. I talked about it with the patient. Some of them actually did fairly well. Some really did not do well. The treatment is determined by what you know and what you've read and I have to say that, again in

reference to the good Senator from Oxford, that I have never been aware, at all, of what the Legislature has mandated me to do for the treatment of Lyme Disease. You read the medical literature. That's where you get your data. You talk with experts in the field and you don't pay attention to the medical advice coming out of Maine State Legislature. That's one, this really isn't needed.

Number two, this bill is really very poorly written. It does make reference, inaccurate reference, to a definition of what Lyme Disease is, which I think people should be somewhat skeptical about. It makes reference to standards put forward by the Department of Health and Human Services and CDC that are really not accurate. They have not come up with statements.

Three, I, basically, interpret these as being "sloppy doctor bills" because they allow you to say, "Just because I'm the doctor, I said so." That, then, allows you to give good treatment and that's not good treatment. You really have to be careful. You have to document what you are doing. You have to use the literature to document what you've done. We don't want "feel good" bills.

The next reason is that my esteemed colleague, Senator Dill, who's an expert in this, but there are other bugs that come out of ticks. There is Rickettsiosis, Ehrlichiosis, and there is Powassan Fever, which is a virus. Why we have chosen one to decide to treat with antibiotics and not the others? I think we are going down a slippery slope with practicing medicine here. There are four reasons that these aren't great bills. In truth, I think this is actually harmful, particularly the Amendment "A". There is emphasis on antibiotics and it says that you should treat Lyme Disease with long-term antibiotics, or it's okay if you do that, you won't be prosecuted. I'm willing to place good money, actually I have placed good money, betting that 20 years from now we will not be treating Lyme Disease with antibiotics in this chronic immune phase. Rather we're going to be treating with other kinds of immune suppressants because I think it's a different disease and we need that kind of research in order to figure it out. I think when 20 years from now people look back and they say that in 2015 the Maine Legislature thought that antibiotics were the way to go, I hope they will be kind with us. I hope they won't be too harsh on their judgment of the way we went along with popular feelings.

Number one, this is harmful. It put the emphasis on antibiotics, which are not at all innocuous in many different ways. I can take a long time to discuss that, but I won't. Second of all, it's really the Board of Licensure in Medicine that's supposed to keep us on the straight and narrow. I'm sure you are all aware that the major thing these days is evidence-based medicine or randomized clinical trials. That's the way you help the art and science of medicine. It's really both. That's what makes a medical career fascinating. It's not one or the other. There is that art and science, but you really need data, you need good evidence as you make up your mind. That's what all of us want our healthcare providers to be doing. Taking away that power from the Board of Licensure of Medicine, quite to the contrary of what has been said, I think that the Board needs that power to be able to decide, based on evidence-based medicine, where the line is. I think you all heard that there have been three cases in Maine where this has been brought up before the Board of Medicine. Three cases where three different providers were considered to have gone over the bounds. One was dismissed. One was thought to be okay. The second actually was sustained. I read through all 83 pages of it and I think that provider should

have been dinged. I think he did a really poor job at giving care. The third is still undecided. Three cases and, as one of the proponents has said, this may happen in the future. It has not happened in Maine. Our system is not broken. I think we do not want to give way to emotion on this particular one. We want to leave the Board of Licensure doing the very best job it can with evidence-based medicine. Mr. President, ladies and gentlemen, I thank you for your attention and if the good Senator from Oxford speaks again I will probably speak again too. We have may have a pact and we'll see how we do. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Aroostook, Senator Willette.

Senator **WILLETTE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, most bills that we deal with here, a lot of the times we like to rely on our own research that we do and draw from our own past experiences. On this issue, I went to the people that actually live and breathe and deal with Lyme Disease. I have four good friends of mine up in Presque Isle that are all physicians and I threw this bill at them, the main bill and the two amendments, and just asked them simply to tell me which one works best. All four of them came back with the Amendment "A". They recommended that I should support that. With that being said, it was a pretty easy decision for me to make. One of those people, my wife and I were out and about and we ran into this person, so we had further discussion. My wife was just off to the side, and just kind of listening, and asked, "What was that all about?" I told her and she said, "Oh, well so-and-so has Lyme Disease. Maybe you should go talk to him." I went and talked to this fellow, this fellow that I know, I don't know very well but I know of him, and I asked the history of his disease and how he treated it. Fortunately, we live about ten miles away from the Canadian border. Up where I'm from nobody would touch him with a 10 foot pole as far as this long-term antibiotic treatment, so he goes to Canada and he gets his treatment there. With that said, that's how I based my decision. I'm just going to read my little piece that I prepared for all of you to listen to and try to make it short.

L.D. 422 seeks to address the issue of Lyme Disease and treatment access in Maine. Just to tie back to that, the good Senator Gratwick had brought up the point about in 20 years we'll be treating this with some different form of treatment. That would be great, but I think in the interim, while we're waiting, I think Amendment "A" is what we really need to come of this piece of legislation. There are many people here in our state that are having a difficult time finding a physician who will treat chronic Lyme Disease with long-term antibiotics. Some will not for fear of being sanctioned by the Board of Licensure for doing so. It makes no sense to me. Our physicians in Maine should be able to serve their patients and treat in the manner that is most appropriate to their condition. Unfortunately, what many families are finding is they have to travel out of the state to receive the care they are so desperate for. I've heard people speak that their physician would like to treat but don't dare. Instead they refer them to someone in Massachusetts and New Hampshire. Being from Northern Maine, that's a long ride to get medical care that someone should be able to get right here at home. Massachusetts, New Hampshire, Vermont, New York, Rhode Island, and Connecticut have all passed similar legislation and this language mirrors, word for word, the permissive language in Massachusetts. Some may say that we shouldn't need legislation

for physicians to treat long-term for Lyme Disease and, quite honestly, I agree we shouldn't. Unfortunately, it seems we do as did six other northeastern states because Maine people are finding they need to go elsewhere to get care. If there wasn't a problem, they wouldn't have to go elsewhere and the rest of our northeastern neighbors wouldn't have needed to pass legislation either. I've gone through the testimony on-line. Quite moving, some of the testimony. The stories are compelling and when someone from the medical community says that they can already treat, all a physician has to do is document the treatment, it just doesn't match what so many people who came to testify in favor of L.D. 422 said. I think we need to listen to the patients. I read both amendments and I've reached out to people, as I alluded to earlier, as to which amendment would best service the people of Maine. If Amendment "B", the motion on the floor, is of concern, mostly because it broadens the bill's original intent to address a disparity in treatment for Lyme Disease to include language that allows non-traditional treatment to be used for all diseases, not just Lyme. While I understand the intent is to say that long-term antibiotic use is considered non-traditional, the words "non-traditional" can really mean a broad range of things. It becomes especially concerning when it's followed up with the language that Board will not discipline as long as the treatment is in the patient's medical records. Does this mean that if everything a physician does is documented, as outlined in this resolve, the Board is powerless to discipline them if they are not treating somebody appropriately? Because of these concerns, I ask you to vote against the pending motion and support the Majority Report. It is narrow in scope, specific to one condition, does not restrict the Board of Licensure, and is permissive in nature so physicians can assess and treat their patients as they feel is appropriate, whether it be an initial 28 day course of medication or longer term, depending on the patient's condition. I ask you, when the vote is taken, follow my light. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair would take a moment to remind the entire Senate of the rules of debate. Please keep all of our comments to the motion that is on the board. The Chair recognizes the Senator from Penobscot, Senator Dill.

Senator **DILL:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I will be brief. I spend much of my time dealing with ticks and, by default, the many deer tick borne organisms, especially those causing Lyme Disease. This little critter can actually transmit as many as seven different organisms. I have personally been treated twice for Lyme Disease. I guess it just goes with the territory of my job. However, I see and know many people who have been diagnosed with chronic Lyme Disease, usually after being diagnosed with either chronic fatigue syndrome or fibromyalgia, depression, thyroid problems, or a myriad of other ailments. It certainly is a very emotional disease. Many, if not all of these people, end up going out-of-state for treatment, as you've heard, and the treatment usually has many parts to it, not just antibiotics but the most integral part of the treatment seems to be long-term antibiotics more than the 28 days, which seems to be the limit of most physicians in Maine, even though it's allowed. As I said, there is a co-infection, as the good Senator beside me mentioned many of those, and some of the same treatments, when you treat the Lyme, will take care of some of those but not all. Documentation is important, whether it's 28 days or many more days. I will admit that I, too, have

concerns about long-term antibiotic use, especially resistance to the antibiotics by a host of other organisms. I guess it's collateral damage. However, I hope you will follow my light and vote against the Minority Ought to Pass on this bill and move to the concern that many doctors have over prescribing long-term antibiotic use. As already mentioned, the report to the Maine Legislature on Lyme Disease dated February 2, 2015, we had 1,381 cases last year in Maine that were actually determined. I'll finish with, Lyme Disease is an insidious disease and deer ticks have been found in all 16 counties in the state of Maine. Let's be sure that the people in Maine have the best access to the treatment possible. Thank you.

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

Senator **JOHNSON:** Thank you, Mr. President. We're not allowed props here or I'd have the jar of ticks harvested from just my yard and garden this summer so far. I want to speak for a moment to the Minority Report, report "B", that we have before us. As already stated, not only is it very broad in terms of telling physicians that it would not result in disciplinary action as long as their non-traditional treatment for whatever disease is clinically documented, but I think that that approach is so broad that as long as they track what their patient's progress is that means if someone wants to start prescribing chocolate for cancer they can do that as long as they keep track of whether the patient is getting better and whether it changed to something else, like snake oil. What we really need is a way to allow physicians to make these decisions, to make the decisions that they feel they should make, to document them well, and not be subject to disciplinary action for a very narrow area we want to make sure is safe at this point. This Committee Amendment "B" doesn't do that. In fact, you can interpret that a couple of different ways. You can decide if they are only telling physicians that they will not result in disciplinary action, but there's nothing to back that up in terms of how they subsequently act, then the physicians don't have any protection. If they do back it up, if they really mean what this says, I'll read it, "Shall notify their respective licensees that using non-traditional treatments for diseases, including Lyme Disease, will not result in disciplinary action based solely upon the use of non-traditional treatment as long as the medical decision making, the monitoring of the patient's reactions to the specific treatment, and the patient's informed consent to a specific treatment are documented in the patient's medical record." There goes snake oil and chocolate. If we really mean it, this is a very unsafe thing. I urge you to defeat this motion so we can go on to consider a way in which we can narrowly address the concerns that we've heard from physicians about their wish to treat Lyme Disease, to make good decisions and document those decisions and the basis of those decisions, and not be subject to persecution for following what they, based on their education and their knowledge in their practice, have every reason to believe is right and are willing to put that on the line, documenting not only that they chose this course of action but the basis for that, the symptoms of the patient, and the tests that were conducted that led them to these conclusions that this is the right treatment. I urge you to join me in defeating the pending motion so we can go on to something which is narrow, safe, permissive of doctors making good decisions but not restrictive and not coercive. Thank you, Mr. President.

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

Senator **VOLK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, my committee's hearing on Lyme Disease was a long and emotional one. We heard from patients and family members, even a few doctors, almost all of whom favored the bill. We were told in the hearing that CDC guidelines from 2006 were outdated. We were left wondering why Maine is the only state in New England not to have adopted language on the treatment of Lyme Disease, especially when so many our residents suffer from it. Normally I'm a hawk for places in statute where Maine is an outlier compared to other states and I usually view outlier status as a negative. However, every once in a while I can appreciate the wisdom in Maine law and previous Legislatures. In doing my own research on Lyme Disease and its treatment, and particular talking to infectious disease specialists whom we did not hear from at the hearing, I've learned that, far from outdated, CDC guidelines have been studied, scientifically tested, and reviewed repeatedly over the last ten years. They are also consistent with European guidelines for the treatment of Lyme Disease. This information was also not presented at the bill hearing. In fact, then Connecticut Attorney General Richard Blumenthal actually sued the Infectious Disease Society of America, saying the guidelines of the CDC severely constrict choices and legitimate diagnosis and treatment options of Lyme Disease patients. He also accused the Infectious Disease Society of America of having panelists with conflicts of interest, of not considering information about chronic Lyme Disease, and refusing to appoint panelists with divergent views. Blumenthal and IDSA agreed to appoint a new committee, vetted by both sides, to review the data and recommendations. They held an all-day public hearing to offer a forum for alternative use of the diagnosis and treatment of Lyme Disease. A new panel was appointed and it issues a final report in 2010. This process took four years. In April 2010, the review panel, which included three members from Lyme advocacy groups and four Lyme literate doctors from the International Lyme and Associated Diseases Society, or ILADS, unanimously, and I want to repeat that word, unanimously agreed that no changes were needed to be made to the 2006 guidelines. This was in 2010. Furthermore, they found that the 2006 guidelines were based on the highest quality medical and scientific evidence at the time and that those standards had been supported by evidence from gold standard scientific studies. These are the double blind studies that we learned about in high school science class where some people are given a placebo and some people are given the regular medication. This is the gold standard, when you don't know which one you are getting and then they study what are the reactions of those two groups. The panel did not find that the authors of the 2006 Lyme Guidelines had failed to consider or cite relative data and references that would have altered published recommendations. More recently, in July 2012, the IDSA reiterated its 2006 guidelines and testified that they were in agreement with the European Union of Concerted Action on Lyme Borreliosis, the European Federation of Neurological Societies, the Canadian Public Health Network, the German Society of Hygiene and Microbiology, and the recommendations of ten additional European countries. Contrast these guidelines with those of the International Lyme and Associated Diseases Society, which are from 2003, and reference opinions and studies between 1975 and 2003.

I agree with my colleague from Oxford that our Board of Licensure in Medicine has not discussed Lyme Disease all that often in the last five years. Why is that? That's because they are not focused on chasing down the doctors for whom they are in charge and they are responsible for. The Board of Medicine, which was accused at the hearing of targeting doctors for treating Lyme outside of CDC standards, has only discussed Lyme on four occasions in the past five years. Three of those occasions were as a result of a complaint. Those are typically brought by a patient. One involved a general discussion of the Infectious Disease Society of America's guidelines. My guess is they looked at the data, they looked at the current research, and they all decided, collectively as a group, that there were no changes needed in Maine statute or in their policies as a board. There is only one case that had any connection to Lyme Disease in which the Board disciplined a physician. In that case, however, the issues discussed centered around the doctor's record keeping, which failed to reflect his medical decision making and did not support his diagnosis and treatment of Lyme Disease, rather than his decision to stray from CDC guidelines. The doctor also failed to document his rationale for prescribing controlled substances. That's an issue of more concern to the Board than over-prescribing antibiotics, as dangerous as those can be. Even then, the Board of Medicine did not suspend or revoke the doctor's license.

What is the big deal? Well, indiscriminate and prolonged use of antibiotics are the main causes for antibiotic resistance and the emergence of "super bugs" whose infections can be deadly and difficult to treat. This use has contributed to a dramatic increase in *Clostridium Difficile* Enterocolitis in America and its epidemic in Maine hospitals, according to one infectious disease doctor, who happens to be my neighbor, whom I spoke with at length, we're talking an hour, about this subject. Long-term antibiotic therapy, particularly when administered by IV, can also lead to bloodstream infections and blood clots.

I'd like to share a brief story from someone who was actually at our hearing but felt too intimidated by the people in favor of this legislation of the original bill to speak. "My sister, Donna, died in 1999 after being admitted to Mayo Clinic in Minnesota following a seizure. She had been treated for 27 months with an IV of cefotaxime for an unsubstantiated diagnosis of chronic Lyme Disease. Five years earlier she had a cholecystectomy, after which she experienced chronic abdominal pain, body aches, headaches, and what she used to say was mental foggy, and numbness. She also reported a periodic rash. Frustrated by these continued symptoms, she approached another doctor, who asked her about a rash she had. She told her that it came and went over the past six months and the new doctor said it could be undiagnosed chronic Lyme Disease. A diagnosis was made despite six negative EIA tests, seven negative blot tests, four negative blood tests, negative urine tests, one negative PCR test, and an MRI of her brain which showed nothing. Her new doctor still put her on oral doxycycline and followed that up with eight months of IV ceftriaxone, followed, yet again, by placement of a catheter for a prolonged course of IV cefotaxime. She was also eventually put on IV doxycycline. Donna said the medicine sort of helped relieve her pain, but her doctor insisted that she allow the medicines to take their course and her life would greatly improve. Our family was concerned and urged her to again see her old doctor, who discontinued antibiotic therapy after noticing abnormal liver function from a lab test and thrombocytopenia. She was sent to a disease specialist who did not agree with a

Lyme diagnosis. She collapsed on her way to the bathroom after being admitted to Mayo, became unresponsive, and died, despite the staff's brave attempts to resuscitate her. We strongly requested to see the autopsy and were shocked when it was explained to us that she had sepsis, a heart valve obstruction, and an atrial thrombus; not pretty, please do a Google search. The autopsy also showed no myositis, neuritis, meningitis, vasculitis, or myocarditis suggest of Lyme disease."

Lastly, L.D. 422 sets a dangerous precedent in Maine law, dictating the treatment of a specific disease and handicapping the Board of Licensure in Medicine's ability to do what professional boards are supposed to do, and that is monitor, investigate, and discipline its members. L.D. 422 would make medical professionals out of the Maine Legislature, a serious affront to the six physicians, one physician assistant, and three lay people that currently make up the Board.

The easy thing to do would be throw the towel in and acquiesce to the personal, emotional arguments in favor of opposing the pending motion, but sometimes here in the Senate we do the right thing. Doing the right thing today means supporting the Minority Ought to Pass Report and respecting the Board of Licensure in Medicine's mission to protect the health of the citizens of Maine.

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

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'd just like to start off by saying I work on a rescue and we talk about sepsis a lot. It comes in various forms in various people. I just had a patient that ended up becoming very septic because they had a problem with some knee surgery, so maybe we should stop doing knee surgeries too. Just food for thought.

I rise in opposition of the pending motion. I have several friends, hundreds of people you hear about, with Lyme Disease and they can't get it treated here in Maine. They go to New Hampshire, Massachusetts. Physicians are afraid to treat with long-term antibiotics because they don't have the support of their Board. Currently, a law has passed in every other New England state. Only Massachusetts has permissive language. By opposing the Minority Report "B" we can move on to Massachusetts language, which was included in their budget and Governor Deval Patrick considered a line item veto on that budget. However, he met with advocates and the Commissioner of Public Health first. After that meeting, he decided not to veto this item in the budget. I am convinced that if Governor Patrick received any doubt from the Commissioner of Public Health he would have vetoed this item. Since this has gone into Massachusetts law in 2010 not a single bill has come forward to overturn this law. The bottom line is, Mr. President and ladies and gentlemen of the Senate, that we need to oppose the Minority Report so we can move on forward and relieve people from this debilitating disease by passing the other report. Thank you.

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, first of all I'd like

to correct a statement I made. The man who was going to put in the business now lives in Brunswick, not Topsham, I guess.

One of the things, I'm not going to debate the effect of long-term antibiotic use or antibiotic use because I know the gold standard for treating viruses is not prescribing antibiotics. I will guarantee you that almost every doctor in the state of Maine will prescribe antibiotics for virus because their patients want it. Is that the right thing to do? I say no. The good Senator from York, Senator Volk, brought up a lot in the guidelines. A footnote in the guidelines states that the guidelines are voluntary and not intended to override doctor's judgement. The good doctor from Bangor, Senator Gratwick, has never met someone who complained about being scared to death. Well there was a doctor, Dr. Joseph Py from Portland who practiced in Maine as an Osteopathic physician for 30 years. I'm going to give you the short version. "For six months prior to my closing my practice I attempted to locate practitioners of like mind and training to take care of my Lyme patients. In all of New England I found five willing to do so. You may ask why I closed my successful practice. While there was a confluence of reasons, the major reason was fear of being reported to my medical board for disciplinary action by fellow physicians who disagreed with my practice protocol for long-term antibiotic use of chronic borelliosos." We had Beatrice Szantyr, a doctor from Lincoln, who actually testified. I'm not going to go through the whole report, but there are just a couple of things that I find really interesting. It's what a lot of it's about. "Physicians are trained to evaluate patients of every level of complexity. Trained to evaluate and choose among treatment options. Trained to discerningly read and utilize the medical literature and trained to prescribe for and follow patients and their progress, reevaluating and adjusting therapy in an individualized way for each patient. We expect this out of our physicians; patient centered and person specific care. That's what this is basically about. A clinician must be able to exercise clinical judgment to assist his or her patients without fear of disciplinary repercussions based solely on a specific treatment regimen within his or her purview to employ. When practice is restricted by the threat of disciplinary action medicine stagnates while disease may advance and patients suffer. I am personally acquainted with physicians' practice in other states who have endured investigation and sometimes sanctions based solely on the use of long-term antibiotics in the treatment of Lyme Disease. Regardless of due diligence on their part, regardless of clinical success, I am acquainted with patients who have been unable to access care specific to their need based on physician's scare of coming under investigation."

Ladies and gentlemen, this amendment here, this report here, is actually counterproductive to a clinician being able to do their job. If I was a professional medical person I would be insulted, I think, with this amendment because I want something that's going to give me guidance that I need to do my job better and I don't think this amendment does. I, myself, consider myself a professional in the welding field and I adhere to all the standards that I have. If anyone doesn't agree with me, if they've got some documentation on things that have worked, I always take it. Ladies and gentlemen, when all is said and done, there's going to be more said than done, and I hope you vote against this amendment. Thank you.

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

Senator **VOLK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, just reading to you from the information, which you can find yourself on-line, about the disciplinary actions against Joseph Py, D.O. "Joseph Py, is an Osteopathic physician," so this is a different board. The Osteopaths are licensed under an Osteopathic Board and not the same Board of Licensure in Medicine. "Who practices in Maine and Massachusetts, has been disciplined by the licensing boards of both states in connection with his use of intravenous hydrogen peroxide to treat diseases for which no scientific evidence exists that it is effective." The document below from the Maine Board of Osteopathic Licensure states, "In June 2002 Py informed the board that since April 2001 he had been involved in a research study whose design had been approved by the Institutional Review Board of the International Bio-Oxidative Medicine Foundation. Py said he understood that the IBOMF IRB was approved by the FDA. The Osteopathic Board was unable to verify this. Py used an informed consent form supplied by the IRB, along with a form titled 'Side Effects of Peroxide Therapy' which stated that the treatment would quite probably improve the condition for which you are under treatment and your overall health. FDA guidelines prohibit overly optimistic representations. The consent form also contained language: "That because IV hydrogen peroxide is regarded as experimental, we cannot and do not offer this procedure to you except upon the condition you do release us from any legal responsibility for harm resulting from use in your case." FDA prohibits any such waiver. That was the basis for which this man has been disciplined in the past and I just bring that up as he and the doctor that I mentioned in my previous testimony were, and one other doctor who is no longer practicing, the only three doctors, to my recollection, that we actually directly heard from at the hearing. 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 by Committee Amendment "B" (H-217) Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#159)

YEAS: Senators: BREEN, CUSHING, GRATWICK, HAMPER, HILL, KATZ, LANGLEY, THIBODEAU, VOLK, WHITTEMORE

NAYS: Senators: ALFOND, BAKER, BRAKEY, BURNS, COLLINS, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, EDGEComb, GERZOFsky, HASKELL, JOHNSON, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

10 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion by Senator **VOLK** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-217)** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-216)** Report **ACCEPTED**, in concurrence.

READ ONCE.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-216)**, in concurrence.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Protect Taxpayers by Regulating Personal Services Contracts"
H.P. 800 L.D. 1166

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-170)** (7 members)

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

Tabled - June 3, 2015, by Senator **CUSHING** of Penobscot

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

(In House, May 21, 2015, 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-170)**.)

(In Senate, June 3, 2015, motion by Senator **WHITEMORE** of Somerset to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, 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 Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

READ ONCE.

Committee Amendment "A" (H-170) **READ** and **ADOPTED**, in concurrence.

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

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

HOUSE REPORT - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act Regarding the Sale of Hard Cider"

H.P. 429 L.D. 616

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-265)**

Tabled - June 4, 2015, by Senator **CYRWAY** of Kennebec

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

(In House, June 3, 2015, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265)**.)

(In Senate, June 4, 2015, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-265) **READ**.

On motion by Senator **CYRWAY** of Kennebec, Senate Amendment "A" (S-195) to Committee Amendment "A" (H-265) **READ** and **ADOPTED**.

Committee Amendment "A" (H-265) as Amended by Senate Amendment "A" (S-195) 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-265) AS AMENDED BY SENATE AMENDMENT "A" (S-195)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding Advanced Practice Registered Nurse Requirements"

S.P. 342 L.D. 970

Majority - **Ought Not to Pass** (12 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-176)** (1 member)

Tabled - June 4, 2015, by Senator **VOLK** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 4, 2015, Reports **READ**.)

Senator **CUSHING** of Penobscot moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm probably the only one here, but could somebody explain what we're doing at this moment with this 12-1 report?

THE PRESIDENT PRO TEMPORE: The Senator from Penobscot has moved the Minority Report and we are voting on the Minority Report. The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK:** Thank you, Mr. President. I rise in opposition to the pending motion, the Minority Report on L.D. 970. This was a very large bill that my committee was asked to consider this year. We had several concerns. One of the concerns that we had is that it would allow CRNAs to go ahead without any supervision once they'd graduated from school. When you look at the training of an anesthesiologist compared to the training of a CRNA you see that they have about half the amount of education and I think it was maybe around one-third of the number of hours that they work in their field before receiving their licenses. I had a lot of concerns about that. I will acknowledge that in some of the rural hospitals, where they maybe don't even do a whole lot of surgeries and they transfer planned major surgeries elsewhere, that a lot of times they don't have an anesthesiologist right there on staff to oversee these CRNAs. What happens when that's the case is that the surgeon would actually be the one to sign off on the orders of the CRNA. At the hearing we heard from a lot of the nurse anesthetists but when it came time for our consideration in between the hearing and the work session my committee heard overwhelmingly, and actually even at the hearing, an unusual number, I'm just remembering now, of doctors showed up. Typically, my experience over the last five years on LCRED is that doctors don't tend to show up for things. It's a big deal for them to take a day off from work. A lot of times I think that they expect that their message will be conveyed either by the lobbyists or by their board of licensure or some other entity, so they don't show up. Actually, at this particular hearing there were a lot. That said volumes in my mind. Not only that, they stayed throughout and that was highly unusual. Just to give you an idea. Previously, the Lyme Disease bill, like I said, we didn't hear from any of the infectious disease doctors, all of whom were opposed to it, if you looked at your sheet, that probably nobody read. They didn't come to the hearing. The anesthesiologists showed up at this hearing and expressed their dismay that they would be cut out of oversight.

I just want to read a little bit from one in particular, who's a member of the Maine Society of Anesthesiologists, the American Society of Anesthesiologists, and he said, "A key element to the democratic process is the ability to bring forth ideas, concepts,

and concerns for consideration by the legislative process and the citizen community that it represents. However, with that privilege comes the responsibility that such actions are taken in the overall best interest of the community that is served by the Legislature. Legislation is often complex," and this legislation was complex. I believe the bill itself is about six pages long. "Time consuming, requires resources from multiple sources, may significantly impact multiple groups, both short-term and long-term, and carries the risk of unintended consequences. The need of legislation in the medical environment has five elements: protection of the public, protection of the individual, quality of care, access to care, and cost. Anesthesiology is the practice of medicine. Every anesthesiologist in Maine has been to medical school, has done a residency in anesthesiology, is likely board certified or equivalent or board eligible, and is accountable to either of the medical boards of licensure. However, many professions use extenders. These are individuals like CRNAs who work in the anesthesia care team under the medical direction of a physician. The legal profession has similar extenders, the paralegals, who are under the direction of an attorney. L.D. 970, and even the amendment, removes that oversight and accountability by the physician for the actions of the CRNA. Protection of the individual: the overwhelming majority of patients expect a physician to be part of their anesthesia care. Indeed, some are more afraid of the anesthesia than the surgical procedure." I think anyone who's ever had surgery has had to acknowledge that. With the prospect of being put under by anesthesia comes the prospect of not waking up again. Even though you know that is extraordinarily unlikely and extraordinarily unusual, you do have that little bit of nervousness until you, yourself, wake up or your beloved family member wakes up. I know my daughter is going to be having her wisdom teeth out in a few weeks and I will be very nervous until she wakes up. "Several nursing schools are now awarding doctorates so that the nurse practitioner can legitimately call themselves doctor. Fortunately, the State has a Truth and Transparency Act which helps protect patients from being confused as to the actual status of their anesthesia care providers. That designation may not be read, especially by patients who are compromised either by their medical condition or disability, such as poor vision from cataracts. L.D. 970 would remove the medical direction by a physician, something that the patient may not suspect or be aware of, especially in the turmoil that may surround medical emergencies. Quality of care: the practice of anesthesia has undergone dramatic changes and has expanded from the traditional perception of the squeezing of the bag in the operating room to the more recent developments of the perioperative or surgical home. Anesthesiology includes both the technical or procedural skills, which are usually easier to document, as well as cognitive skills which may actually have a profound, long term impact on outcomes but are more difficult to quantify. Data has shown that the anesthesia care team, the physician lead team which may include other anesthesia providers such as resident physicians, CRNAs, anesthesia assistants, cardiovascular and anesthesia technicians, does provide the optimal care on multiple fronts. Each group brings its own unique skills and strengths to the patient's anesthesia care, often producing a symbiotic relationship where the whole is greater than the sum of its individual components."

One of the things that I remember hearing from a lot of these physicians is the fact that they have great respect for the CRNAs with whom they work, but they do know that, from time to time, they will come across something that these nurses have missed

because they're not trained the same way that doctors are trained to take in the entire global picture of that patient and the potential for interactions. They are trained very narrowly in their scope of practice whereas doctors are trained in the practice of medicine entirely and then they devote themselves to a particular scope of practice, for which they receive all sorts of on-going education. Many of them shared stories where they were able to call attention to something a nurse had missed. That is why they preferred to be the ones that have the oversight, even if that only means a signature on a piece of paper.

He talks about access to care and access to care is something that, of course, we are very concerned about in the state of Maine. One of the things that was testified is that there doesn't seem to be an issue with access to care regarding anesthesiology. I don't think that that really passed the test. Cost of care: L.D. 970 gives nurse anesthetists unlimited scope to order tests and other diagnostic procedures, including imaging and cardiac evaluations. One of the things it also does is it gives them the ability to not only order those tests but to also interpret those tests. Again, this is something that they may be trained to do it in a narrow way but they are not trained to do it in the same way that doctors are.

Passage of this bill, in my opinion, nullifies the value of someone who goes through a 14 year process to achieve their knowledge and their title as compared to someone who goes through a 6 or 7 year process. I urge you to oppose the pending motion. Thank you.

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

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in support of the pending motion. Make no doubt about it, this is about territorial issues between doctors and nurses. In 1988, when I began my journey to become a paramedic, we had the same issues that came up. "You'll never be able to do this in the field." "You'll never be able to be aseptic." "It's impossible without us being there watching you to do this." Well, today we do it and they don't even want us to call them. We interpret 12-leads and we make decisions based in the field whether that person's going to your local hospital or whether they are going to a cardiac care center. That's not done by a physician. It's done by an emergency medical technician that has two years of training. This, ladies and gentlemen, I assure you can be done and I assure you they will, and are trained to the level. Spectrum Anesthesiology Group had one of their physician anesthesiologist speak at the hearing. His testimony was distracting because he made some very aggressive and purely untrue statements, in my opinion. He said that the only thing a nurse anesthetist can do is independently start an IV. He spoke of regional pain procedures, where providers are one millimeter away from disaster. What he didn't explain well was the both nurse anesthetists and physician anesthesiologists are trained to use ultrasound to perform these regional pain procedures. Both providers use ultrasound guided techniques. Both providers can see within one millimeter threshold of disaster the exact location of the needle. No one does this blindly. Mercy Hospital in Portland, Maine, the place where, if there is an emergency C section happening during the middle of the night, it's a nurse anesthetist that deals with the mother and the unborn baby that's in danger of losing their life from complications of pregnancy and the childbirth. The nurse

anesthetist, a CRNA, is alone in the building and the sole provider who puts that patient to sleep. We should ask the physician anesthesiologist, the person of the Maine Society of Anesthesiologists, the Spectrum Anesthesiology Group that covers Mercy Hospital, where they are when the call comes in for that stat case. I know where they are. They're in their warm, cozy bed at home; in Yarmouth, in Falmouth, in Cumberland, in Cape Elizabeth, and wherever else they live. They are not inside Mercy Hospital in Portland, Maine. When they arrive, more often than not, the baby has been delivered, the surgeon is closing the abdomen, and the nurse anesthetist is getting ready to start waking the patient up from her completed C section. This is not in rural Maine, this is in Portland, Maine. It's a practice of convenience, that's all it is. When there's a Code Blue at Mercy Four River who responds and runs that code? The nurse does. When there's a rapid response for a patient in trouble at Mercy, who manages it? The nurse anesthetist does. When a baby is born and has respiratory distress, or has myocardial aspiration, who manages it while they are doing the intubation? You guessed it. The nurse does. Let's be clear. If a physician anesthesiologist is in the building, supervising a nurse, doing an orthopedic procedure, or something to do with the baby in distress, what happens? The physician comes in to the case where the nurse is and takes over the care of that anesthetic so the nurse can respond to other calls of neonatal distress. Is that just starting an IV? I would say not.

One night there was a rapid response for a patient who was going into CHF after a total joint procedure. This was at 11 o'clock, 23:00 hours. The woman needed a chest x-ray and an EKG, treponemal levels, BNP levels, and Lasix. The nurse anesthetist could hear fluid in her lungs, could see the peripheral edema, and carried out, personally, what needed to be done because we don't have prescriptive authority. The nurse anesthetist called the hospital at State Street, told him what the lab work was, drew the lab work, and waited for his okay. It was explained to him that the patient needed a chest x-ray and EKG and other procedures. The hospital said "You're said doing everything I would do. Write these orders down and I will sign them for you." Why the delay? They could have just done it to begin with and the doctor agreed with them.

Here we are trying to keep up with the advance practice consensus models, well established and accepted in other states. That is what is best for the people of Maine and to have CRNAs be attached professionally and lied about what nurse anesthetists do was, and is, disheartening. The President of the Maine Society of Anesthesiologists said that if one of his family members was having surgery he would want a physician present, but yet if your sister or wife was having a baby emergency at Mercy Hospital he feels comfortable being in his warm and cozy bed. I personally know how all the nurse anesthetists helped teach me and my paramedic colleagues when we were going to school. They were the ones in the front lines with us, teaching us how to put in breathing tubes, intubations, saving lives, and the skills that it took for us to be successful in the field. I have personally observed operating room procedures where the anesthesiologist was present only momentarily to let the CRNA do the job. Yes, indeed, in Maine physician anesthesiologists do the open heart procedures. Unfortunately, a nurse anesthetist practicing in Maine cannot be on the heart team. However there is a nurse on a heart team in another state in this country for five years and all the patients did well while they were attending on that heart team. There is one person I know that has personally

done anesthesia for hearts. That is fine that the anesthesiologist wants to do that here, but don't let them understate what a nurse anesthetist can do and what they are capable of doing and doing carefully. Don't discredit the fact that studies show, time and time again, that there is no difference in outcome if anesthesia is given by a physician anesthesiologist or a certified registered nurse anesthetist. Don't cloud that statement. They are trained, well trained, very safely. This bill will not change how they practice and what they do in a day-in and day-out situation. I would urge you to support the pending motion. Thank you.

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

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I give my apologies for creating somewhat of a confusing situation here. The Minority Report, which I offered, was offered in an effort to correct an error that I was not able to address in the committee process and I have an amendment in the event that this report is successful that I desire to add. I appreciate your latitude in allowing me to explain that. I feel if it had been presented the committee report would look a lot different and more balanced than it does now. I'll speak to that at another point.

This legislation, Mr. President, that is being considered by this Body will address some of the most pressing healthcare needs in Maine and the nation: the cost of care and access to care, particularly in rural Maine. I'd like to point out that during this process we in the Labor, Commerce, Research and Economic Development Committee have had a number of areas that relate to healthcare on various levels. They have been, many times, complex. I want to offer my thanks to both the anesthesiologists and those representing the nursing community as to respectful and how thoughtful they were in bringing forward both their advocacy and their debate over the concerns on this issue. It is very helpful to us when we can sit down as citizen legislators and have the opportunity to learn from people on both sides of an issue in a manner that allows us to better comprehend this very challenging debate that we're faced with here today.

I want to set a couple of points before you for your consideration. As I indicated in my comments, this really is not about, in my opinion, a tremendous battle. There is certainly an advocacy within the nursing community for the opportunity to provide a greater level of healthcare than they may be able to in the current situation. They are providing many of these services, but they are providing them with the requirement of direct supervision of the doctor or physician. However, it is not always an anesthesiologist who is in a position to do that. Many times it is an attending surgeon or an ER doctor or someone who is there, who is signing off on issues that they may not be as fully aware of or sensitive to because of the demands of their role in the surgical suite or the emergency rooms. I'd like you to reflect on that and reflect on the fact that these nurses have worked on a national level to establish standards throughout the U.S. Part of this is to address their desire to have consistency of services when they are trying to attract other APRNs to practice in Maine or perhaps to allow some of these people to have the flexibility when they travel to other states that may have reciprocal agreements.

To me, Mr. President, this is a matter of advancing the discussion of healthcare. For a state like Maine, we're look at many of our rural hospitals that are struggling, not because they don't care or that they don't want to have the full range of

services, but because, in some cases, the people who come to them, through the variety of nurse professions that are addressed in this bill, are willing to locate and become parts of communities where they've had challenges in getting full-time anesthesiologists to reside in those communities. That's not in any way to disrespect the doctors, but it's a reality of the world that we're living in now.

I want to point out that any hospital still has the opportunity, under this bill as presented, to establish their own policies as to the guidelines for oversight and involvement of different levels of healthcare professionals. This does not mandate that hospitals that are not comfortable with this, or that are fully staffed with the level of support that they feel they need in the anesthesia suite, that they can't choose, internally, their own policies. It does provide options for those who may have a need. There is much more I could say on this subject, Mr. President, but if I have addressed things to this level appropriately I will sit down and save my time in case someone else has something that I'd like to add to. If I feel anything is missing I will risk the chance to get up once again and speak. Thank you, sir.

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

Senator **VOLK:** Thank you, Mr. President. Regarding some of the comments made by my colleague from York County, at Mercy Hospital those CRNAs are overseen by a surgeon. There is a doctor present. I guarantee you that there is someone who is performing that emergency C section and that person would be a doctor, a surgeon, someone who is highly trained and skilled, someone who actually probably rotated through anesthesiology at some point in their medical training. There is that level of oversight at all times and the physicians that we heard overwhelmingly expressed to us, and it was the opinion of almost all the members of the LCRED Committee, that the care team model continue to be the safest model for patients and that there was no need to change it. Thank you.

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 stand before you being on the 12 on the 12-1 report, but I will say the reason I was on the 12 side is because the scope of practice issues can be very contentious and the reason that I was on the Ought Not to Pass Report is, at the time, I believed that what the Advanced Practice Registered Nurse and anesthetists were looking for was way too broad. I have been one who has consistently, and will always, gone on the side of increasing ones' scope of practice. In dealing with the Senator from Penobscot, he was able to go beyond the normal when we voted this bill out and continued to work and was willing to offer an amendment that I believe will even narrow the scope a little bit more, which, if that happens, in order to get to that point, you have to defeat this motion. I'm actually going to be going against my committee vote to allow us to make some small, incremental, scope of practice changes to this profession. Thank you, Mr. President.

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

Senator **GRATWICK**: Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I rise just very briefly. It has been a very interesting afternoon. We've discussed many different ways in which medical practices is slowly changing. I think none of us have any doubt that medical practice has been changing over the last 50 years. It's going to change a lot more. Many more people are knowledgeable about it. I think that my litmus test for all these bills is: how does it affect the patient? I think that's what we always have to come back to. It's not particularly relevant how it affects the professional society or how it affects this self-important person versus the other. What's it affect going to be on the patient? This is an instance in which I think the Majority Ought Not to Pass is still the appropriate way to go because the real question is: how does it affect the patient? You are the patient and would you rather have a highly skilled anesthesiologist or a medium skilled. The answer, mostly, is that you would rather have a highly skilled anesthesiologist for those instances when things go wrong. To answer the question of the good Senator from York: what happens if you're out on the road, if you are at home, if it's an accident, would you rather have a highly skilled emergency provider, as we have here, or nobody? Most assuredly you'd rather have a highly skilled provider. That is an advance that society has made so many more people are treated, but there still is a hierarchy and there is no question that those people are the anesthesiologist who've had many years of experience or more experience and see more untoward events than those who are lesser trained. I basically reject the idea that this is a territorial issue, a turf issue, an issue preserving my income versus your income. I just think that professional groups, and I speak with conviction and passion on this, are in favor of very rigorous standards because they have sworn to uphold this care for patients. I think that these decisions are best made by professional societies. I think scope of practices are going to be changing over time and these are best made away from this legislative environment. They are much better made by negotiations with those groups. I urge people to stick to the Majority Ought Not to Pass. Thank you, Mr. President.

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

On motion by Senator **HILL** of York, 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 (#160)

YEAS: Senators: BRAKEY, CUSHING, CYRWAY, DAVIS, DILL, DUTREMBLE, EDGEComb, HAMPER, JOHNSON, KATZ, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, WHITTEMORE, WILLETTE

NAYS: Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, DIAMOND, GERZOFsky, GRATWICK, HASKELL, HILL, LANGLEY, LIBBY, MCCORMICK, THIBODEAU, VOLK, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator **CUSHING** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-176) **READ**.

On motion by Senator **CUSHING** of Penobscot, Senate Amendment "A" (S-211) to Committee Amendment "A" (S-176) **READ**.

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

Senator **CUSHING**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I appreciate the indulgence of this Body to allow us to get to the point where I can add the amendment. The amendment is very simply an extension of the oversight period, for at least 24 months under the supervision of a licensed physician or supervising nurse practitioner or requires employment by a clinic or hospital that has a medical director who is a licensed physician. This would be related to the licensed independent practitioner or a certified nurse practitioner. Thank you, Mr. President.

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

Senator **VOLK**: Thank you, Mr. President. I just want to point out that the amendment does nothing to change the oversight for CRNAs. It does not narrow the scope of practice and they would be able to, all nurse practitioners, prescribe and interpret broadly, yet they are not broadly trained. They have not gone to medical school. My suggestion, if they want to go to medical school, would be to go to medical school so that they could be doctors. Furthermore, I would like to request a roll call.

On motion by Senator **VOLK** 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 Penobscot, Senator Cushing.

Senator **CUSHING**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today in clarification on a couple of the items in regards to the amendment. I recognize that this issue still concerns some people, but the matter of oversight was one brought up in the committee and I have tried to respectfully address that matter with the amendment I have presented before you. I would also like to note that ultimately the issue we're talking about here, under this legislation, would give CRNAs independent practice, eliminating outdated regulations. The

issues that we have spoken of in relationship to the coverage in certain rural areas will be appropriately addressed, in my opinion, by moving forward in this manner. I thank you for your indulgence in what has been a complex discussion.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Cushing to Adopt Senate Amendment "A" (S-211) to Committee Amendment "A" (S-176). 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 (#161)

YEAS: Senators: BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DILL, DUTREMBLE, EDGECOMB, HAMPER, JOHNSON, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, WHITTEMORE, WILLETTE

NAYS: Senators: ALFOND, BAKER, BREEN, DIAMOND, GERZOFKY, GRATWICK, HASKELL, HILL, KATZ, LANGLEY, LIBBY, MCCORMICK, THIBODEAU, VOLK, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **CUSHING** of Penobscot to **ADOPT** Senate Amendment "A" (S-211) to Committee Amendment "A" (S-176) **PREVAILED**.

Committee Amendment "A" (S-176) as Amended by Senate Amendment "A" (S-211) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY SENATE AMENDMENT "A" (S-211)** thereto.

Sent down for concurrence.

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

Off Record Remarks

On motion by Senator **CUSHING** of Penobscot, **ADJOURNED** to Tuesday, June 9, 2015, at 10:00 in the morning.