

MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Seventh Legislature

State of Maine

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

In Senate Chamber
Wednesday
March 30, 2016

Senate called to order by President Michael D. Thibodeau of
Waldo County.

Prayer by Reverend Timothy Wilcox, Gray Memorial United
Methodist Church in Caribou.

REVEREND WILCOX: Thank you, Mr. President. Senators, staff, distinguished guests, fellow citizens, I invite you to be in a spirit of prayer. Holy and wondrous God, we thank You for this world You have made and how much of it we are able to enjoy here in Maine. From fields and forests, to mountains and rugged coastlines, from lakes and countryside to our livable cities, from Fort Kent and Calais to Kittery and Fryeburg, we so much enjoy Your handiwork. We acknowledge we have, at times, taken all these treasures for granted, dismissed how fragile life really can be, and we haven't always appreciated our common humanity. Seeking not always to understand, sometimes speaking without thinking, judging without always walking in someone else's shoes. Yet You are gracious beyond what we can understand. We ask for Your forgiveness and guidance, grateful that even when we stumble You welcome us with open arms. We hold all in this Chamber, and in our wider circles, who are in need this day and we think of those persons with a moment of silence. In the midst of all this, we acknowledge we are under pressure from many directions, with many competing interests, as we seek to serve the people of Maine in a variety of ways. We pray that we can continue the wondrous tradition of this place, that we strive for the common good and, in this time of political, economic, and social change here in Maine and across our great nation, we pray for Your courage, to do our work in ways that help us bridge those gaps that would divide us and, even when we don't see things in the same way, that we can still shake hands at the end of the day as fellow citizens. Help us see our common humanity in our colleagues, whether it's across the aisle or across the state, in this Chamber or the Chamber down the hall, or in the Administration across this city. For those business people, students, workers, tradespeople, parents, caregivers, and people who give their energies to a great many community organizations, we pray that, with Your help, we can strive with as much passion for what will work for all of us concerned and for those values we hold so dear. May we be a voice for those without voice, for those that we serve, understanding that Your image of grace is present in each face, as we hold ourselves to a high standard even as we expect accountability in our own common work. As we come towards the end of the session with many bills to consider and much work to be done, certainly much pressure from many different directions, help us have patience and insight for the road ahead. At a time such as this, as we contemplate winter's late arrival and the impending dawning of spring, may we be renewed by Your strength and spirit, refreshed and enlivened for the work that awaits us on behalf of those whom we serve. It

is in Your gracious name we pray these things and so many others as well. Amen.

Pledge of Allegiance led by Senator Rebecca J. Millett of
Cumberland County.

Reading of the Journal of Tuesday, March 29, 2016.

Doctors of the day, Ari Berman, M.D. and Kirsten Berman, M.D.
of Cape Elizabeth.

Off Record Remarks

Presentation of Legislative Memorial Scholarship Awards.

THE PRESIDENT: Ladies and gentlemen, at this point we will be announcing the 16 winners of the Legislative Memorial Scholarship and present certificates to those who are able to attend today. Would the Sergeant-At-Arms please escort Senator Diamond to the Well of the Senate.

We will begin by announcing some Scholarship recipients that were unable to make it here today. We have the winner from Hancock County is Cathie-Jo Langley of Hancock. Cathie-Jo attends the University of Maine in Orono. The winner for the Aroostook County is Jessie Cormier of Van Buren. Jessie attends Northern Maine Community College. The winner from York County is Rebecca Greenlee of Old Orchard Beach. Rebecca attends the University of Southern Maine. The winner from Lincoln County is Jasmine Waite of Southport. Jasmine attends the University of Maine in Orono. The winner from Franklin County is Taylor Harris of New Sharon. Taylor attends the University of Maine in Farmington. The winner of Somerset County is Abigail Weigang of Shamut. Abigail attends the University of Maine in Orono. The winner from Cumberland County is Paige Carter of South Portland. Paige attends the University of Maine in Farmington. I want to make sure to congratulate all these folks.

At this point we'll recognize the Scholarship recipients that were able to join us here today. We will begin with the winner from Androscoggin County, Breanna DeGone of Turner. Breanna is here today with her parents, Stephen and Cheryl; her brother, Anthony; and her friend, Holly. Breanna attends the University of Maine in Orono. Will the Sergeant-At-Arms please escort Breanna and her guests to the Well of the Senate, as well as Senator Mason. The next winner is from Kennebec County, Aiden Campbell of Augusta. Aiden is here today with his mother, Sue Campbell. Aiden attends the University of Southern Maine. Would the Sergeant-At-Arms escort Aiden and his guest, as well as Senator Katz from Kennebec, to the Well of the Senate. The next winner is from Oxford County, Kristen Stanley of Porter. Kristen is here today with her parents, James and Nancy. Kristen attends the University of Southern Maine. Would the Sergeant-

At-Arms escort Kristen and her family, as well as the Senator from Oxford, Senator Hamper, to the Well of the Senate. The next winner is from Sagadahoc County, Emily Denis of Topsham. Emily is here today with her parents, Jean and Amy Denis. Emily attends the University of Maine in Farmington. Would the Sergeant-At-Arms escort Emily and her family, as well as Senator Baker from Sagadahoc, to the Well of the Senate. The next winner is from Washington County, Tristan Alley of Jonesport. Tristan is here today with his parents, Sheldon and Michelle. Would the Sergeant-At-Arms escort Tristan and his family, as well as the Senator from Washington, Senator Burns, to the Well of the Senate. The next winner is from Waldo County, Erin Rollins of Lincolnville. Erin is here today with her parents, Peter and Amy Rollins. Erin attends Husson University. Would the Sergeant-At-Arms escort the Rollins family to the Well of the Senate. The next winner is from Piscataquis County, Robin Ashley Kelly of Dover-Foxcroft. Robin is here today with her mother, Karen King, and her step-father, Mark King. Robin attends Eastern Maine Community College. Would the Sergeant-At-Arms escort Robin, her family, and Senator Davis from Piscataquis to the Well of the Senate. The next winner is from Penobscot County, Adais Viruet-Torres of Brewer. Adais attends Husson University. Would the Sergeant-At-Arms escort Adais, as well as Senator Rosen, to the Well of the Senate. The last winner that we are going to recognize today is from Knox County, Aaron Nolan of Camden. Aaron is here today with his father, Chris Nolan. Aaron attends Husson University. Would the Sergeant-At-Arms please escort Aaron and his guest to the Well of the Senate, as well as Senator Miramant from Knox County.

Ladies and gentlemen, I just want to take just a moment to say what a great job Senator Diamond did as the Senate Chair, making sure that this year's Scholarship Auction was a tremendous success. I know that each and every one of you brought in things from your Senate Districts to make sure that there were plenty of things to auction off. There was a lot of effort that went into this because I think each and every one of us truly believes that an education is the best way to be successful in life and so we're all very pleased to be part of that success, to be part of helping each and every one of these students achieve a higher level of education. We were able to raise over \$31,000 during this campaign. I think that's something that we're all proud of and we're all excited and proud of each one of these students that received the awards. At this point would you please join me in congratulating all of the recipients of the 2016 Legislative Memorial Scholarship.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Implement the Combination Defined Benefit and Defined Contribution Retirement Plan Described in a Report Submitted to the Joint Standing Committee on Appropriations and Financial Affairs in March 2012"

H.P. 715 L.D. 1032

In House, March 3, 2016, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

In Senate, March 28, 2016, on motion by Senator **HAMPER** of Oxford, 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-534)**, in **NON-CONCURRENCE**.

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

On motion by Senator **HAMPER** of Oxford, the Senate **INSISTED**.

Non-Concurrent Matter

Bill "An Act To Ensure the Use of Environmentally Responsible Insulation Materials in Taxpayer-funded Building Projects"

S.P. 461 L.D. 1286

In Senate, March 28, 2016, on motion by Senator **WHITTEMORE** of Somerset, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386)**, in **NON-CONCURRENCE**.

Senator **WHITTEMORE** of Somerset moved the Senate **INSIST**.

Senator **JOHNSON** of Lincoln moved the Senate **RECEDE** and **CONCUR**.

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

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

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just want to say, briefly, that if we care about our lobstering, which there is a predicted early shedder season which, when it happened in 2012, was economically devastating to the industry, if we care about the agriculture in this state, Representative Black, in the other Body, noted how the maple syrup season has changed significantly over the years, we should be supporting this bill. It costs nothing and it's responsible in reducing the impact on climate change. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Lincoln, Senator Johnson to Recede and Concur. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#563)

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

NAYS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MASON, MCCORMICK, ROSEN, SAVIELLO, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT - MICHAEL D. THIBODEAU

EXCUSED: Senator: WOODSOME

14 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **JOHNSON** of Lincoln to **RECEDE** and **CONCUR FAILED**.

On motion by Senator **WHITTEMORE** of Somerset, the Senate **INSISTED**.

Sent down for concurrence.

Non-Concurrent Matter

Bill "An Act To Require That Public Postsecondary Educational Institutions in the State Give Preference to Maine Producers When Entering into Contracts Related to Heating Fuel"
H.P. 1079 L.D. 1588

In House, March 22, 2016, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

In Senate, March 23, 2016, 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-564)**, in **NON-CONCURRENCE**.

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

On motion by Senator **WHITTEMORE** of Somerset, the Senate **INSISTED**.

Non-Concurrent Matter

Bill "An Act To Replace a Statue in the National Statuary Hall Collection"

S.P. 645 L.D. 1604

In Senate, March 28, 2016, on motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, 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-413)**, in **NON-CONCURRENCE**.

On motion by Senator **LANGLEY** of Hancock, the Senate **INSISTED**.

Non-Concurrent Matter

Bill "An Act To Create Community Substance Abuse Programs"
S.P. 686 L.D. 1674

In Senate, March 23, 2016, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **ROSEN** of Hancock, the Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication: S.C. 906

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

March 28, 2016

The Honorable Michael Thibodeau
President of the Senate
3 State House Station
Augusta, Maine 04333

Dear President Thibodeau,

This is to inform you that, pursuant to Title 3 M.R.S.A., §154, I am withdrawing my nomination of Endrew P. Charles for reappointment as a member of the Workers' Compensation Board.

This nomination is currently pending before the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Thank you for your assistance in this matter.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The Following Communication: S.C. 908

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

March 29, 2016

The 127th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 127th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1529, "An Act Regarding the Application Fees and Inspection Fees Associated with the Provision of Amusement Rides."

In the past, the budget of the Fire Marshal's Office was year over year in the red, due to the flat fee structure that the Fire Marshal was forced to charge to inspect amusement rides. This imbalance was Fixed last session and now the budget of the Fire Marshal's Office is stable. Because this bill would impose a flat fee rather than an hourly rate, it constitutes a step backward and would risk throwing the budget of the Department of Public Safety into instability.

For this reason, I return LD 1529 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act Regarding the Application Fees and Inspection Fees
Associated with the Provision of Amusement Rides
(EMERGENCY)

S.P. 591 L.D. 1529

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor? In accordance with Article IV, Part Third, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays. A vote of yes will be in favor of the Bill. A vote of no will be in favor of sustaining the veto of the Governor."

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#564)

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN,
BURNS, COLLINS, CUSHING, CYRWAY,
DAVIS, DIAMOND, DILL, GERZOFISKY,
GRATWICK, HAMPER, HASKELL, HILL,
JOHNSON, KATZ, LANGLEY, LIBBY,
MASON, MCCORMICK, MILLETT,
MIRAMANT, PATRICK, ROSEN,
SAVIELLO, VALENTINO, VOLK,
WHITTEMORE, WILLETTE, THE
PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senator: EDGECOMB

EXCUSED: Senator: WOODSOME

32 Senators having voted in the affirmative and 1 Senator having voted in the negative, with 1 Senator being excused, and 32 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

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

The Following Communication: H.C. 499

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

March 28, 2016

The 127th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 127th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1516, "An Act To Clarify the Authority of County Sheriffs To Grant Law Enforcement Powers."

This legislation would change the long-standing policy that police officers should be deputized by sheriffs only in cases of emergency. There are good reasons why municipal law enforcement officers are authorized to operate in very well defined jurisdictions except in cases of emergency. By removing the requirement that an emergency exist before a sheriff may deputize municipal officers, this bill would unnecessarily disrupt the well-balanced, layered approach to law enforcement that our state has adopted.

It is not difficult to think of the vast differences between the way municipal police departments and sheriff's officers are funded and administered. Those differences are important and serve to uphold the trust the public places in their elected officials, municipal officers and law enforcement personnel. Residents of some municipalities do not wish to spend limited taxpayers' dollars on an enhanced police presence. These residents rely on the State Police and sheriffs to offer policing services. Residents of some other municipalities place a premium on having well-staffed and well-paid local police departments that are dedicated to local policing. I believe the residents of municipalities who spend large sums to ensure the public safety of their municipality deserve to know their police will only be called to serve outside their local jurisdiction in cases of emergency.

For these reasons, I return LD 1516 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Allow School Resource Officers To Have Jurisdiction at Off-site Events (EMERGENCY)

H.P. 1041 L.D. 1516

Comes from the House, 149 members having voted in the affirmative and none in the negative, the veto of the Governor was Overridden and it was the vote of the House that the Bill become law notwithstanding the objections of the Governor.

On motion by Senator **CUSHING** of Penobscot, **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

Senate at Ease.

Senate called to order by the President.

SENATE PAPERS

Bill "An Act To Amend the Finance Authority of Maine Act"
S.P. 694 L.D. 1686

Presented by Senator **VOLK** of Cumberland.
Cosponsored by Representative **HERBIG** of Belfast.
Submitted by the Finance Authority of Maine and approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator **VOLK** of Cumberland, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

Sent down for concurrence.

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

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

Stowe Duston, of Cherryfield, a member of Boy Scout Troop No. 139, who has attained the high rank and distinction of Eagle Scout. This is the highest award in Boy Scouting and is given for excellence in skills development, leadership, personal growth and community service. For his Eagle Scout project, Stowe organized and managed a group of volunteers who put in 200 hours of work to rebuild an equipment shed, a refreshment stand and the foundation of some bleachers at the Palm City Recreation Field in Florida. We extend our congratulations to Stowe on this achievement;

SLS 1073

Sponsored by Senator **BURNS** of Washington.
Cosponsored by Representative: **ALLEY** of Beals.

Savage Bloomer, of Cherryfield, a member of Boy Scout Troop No. 139, who has attained the high rank and distinction of Eagle Scout. This is the highest award in Boy Scouting and is given for excellence in skills development, leadership, personal growth and community service. For his Eagle Scout project, Savage improved a trail, provided it with signs and bridges and built a trailhead for it at Spragues Falls Road in Cherryfield. The trail extends over a half-mile to the open summit of Young Tunk Mountain and provides hiking and snowshoeing access to preserve land. We extend our congratulations to Savage on this achievement;

SLS 1074

Sponsored by Senator **BURNS** of Washington.
Cosponsored by Representative: **ALLEY** of Beals.

READ.

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

Senator **BURNS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I want to thank you for taking a few minutes out this morning to recognize this distinguished group of young men. First and foremost, we have a large part of Troop 139 from Washington County here with us, helping us page today. Part of their motto, as you know, is putting others first and helping other people at all times. As you can see, that's what's going on here today. I'm a little bit embarrassed to say that when I was a Boy Scout I never got beyond Tenderfoot but, as you can see, there's a lot more distance that you can go because of the

gentlemen that we are honoring here today. It is an opportunity to have special recognition for these Eagle Scouts. These boys must fulfill requirements in leadership, service, and outdoor skills in order to attain the high level of Scouting that they've attained. The rank of Eagle Scout, of course, as you know is the highest award in Scouting. This particular accomplishment of theirs will help them in the future in higher education, in business, in the community. Who knows, they may be part of this Body at some point. I certainly hope that they consider that. These Scouts are leaders in the community. They've already proven that and that's one reason they're being recognized, they are recognized, in their position and also being recognized here today. I want to mention a couple of things, just reiterate a couple of things that were just spoken about when the Secretary was reading the sentiment. Stowe Dunston, for instance, organized and managed volunteers to put in 200 work hours to rebuild equipment sheds, refreshment stands, and bleachers. Savage Bloomer worked to improve trails and provide signs and bridges and build trailheads in an area we call Spragues Falls down in Cherryfield. Jacob Endre improved wood trails on the Downeast Salmon Federation lands to provide access a historic cemetery that, before that, was only accessible by canoe. You can see they've already gone a long ways into their leadership. A very impressive group. Savage Bloomer has been accepted to the Maine Maritime Academy and also the University of Southern Maine. Jacob Endre has been accepted at Husson University and plans to study conservation law. Stowe Dunston has been accepted to the Maine Maritime Academy and also Stetson University. You can see they are well on their way. These gentlemen have unlimited horizons in front of them. It's with great pleasure today that we're able to honor these gentlemen. I also want to thank, and really we should honor, the leaders that brought them here today because without their volunteer time and efforts this wouldn't be possible, Scouting across this country wouldn't be possible, and we really appreciate all the effort that goes into helping out Scouts when they start out at the very youngest until they finally, hopefully, become Eagle Scouts. With that, I would thank the President and thank the Senate for recognizing these folks.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the Chamber with us today Jacob Endre, Stowe Dunston, and Savage Bloomer, as well as the leaders of Troop 139. Would they please all rise and accept the congratulations of the State Senate.

Nia Irving, of Fairfield, a senior at Lawrence High School and a player on the girls basketball team, who was named Miss Maine Basketball for 2016 by the Maine Association of Basketball Coaches. This season, Nia averaged 25.6 points and 21.1 rebounds per game while shooting 57% from inside the arc, leading the team to a 21-1 record and its second consecutive Class A State Championship game. For the past 4 years, she led the league in scoring and rebounding, with a total of 1,761 points and 1,206 rebounds. We extend to Nia our congratulations and best wishes;

SLS 1075

Sponsored by Senator CYRWAY of Kennebec.
Cosponsored by Representative: PICCHIOTTI of Fairfield.

READ.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm honored and proud to have Nia Irving here with us today as we recognize her being Miss Maine Basketball 2016. Nia is a member of the Lawrence High School Girls Basketball Team and is the first Lawrence girl player to be named Miss Basketball since Cindy Blodgett in 1994. Nia is here today with some of her teammates, as well as Coach John Donato and Lawrence Athletic Director Bill MacManus. I'd like to mention that even while we are honoring Nia for her individual accomplishments, I'll bet that she'd say many of these would not have been possible without the efforts of all her teammates. The Lawrence Girls Basketball Team has really had an incredible few years. That is due to the efforts of the team, as a whole. I could not be prouder of this talented group of student athletes. Nia has won multiple awards throughout her basketball career. In fact, she was just down in the House receiving a sentiment for being named Maine Gatorade Girls Basketball Player of the Year for the second year in a row. She's also four time Kennebec Valley Athletic Conference Player of the Year. Nia is truly a remarkable athlete. She averaged 25.6 points and 21.1 rebounds per game while shooting 57% from inside the arc this past season. She is a 1,000 point scorer and also reached 1,000 rebounds. In fact, I believe she even made 1,761 points and 1,206 rebounds this season. I learned that Nia and Dominique are known as the Dynamic Duo because Dominique Lewis also reached the 1,000 point mark this season. Dominique is here with us also today. Through the efforts of Nia, Dominique, and the entire team, Lawrence Bulldogs won the 2015 Class A State Championship and were the 2016 State runner-up. The achievements that Nia has earned do not come without an incredible amount of work and commitment. In May 2014 Nia tore her ACL while playing AAU Basketball. With dedication, hard work, and her love for the game, Nia was able to achieve an amazing recovery. Also Nia's parents, Harry and Lisa Irving, have been at almost every game, supporting her. It takes a family to have this happen. I support them as well in their efforts. Nia will be graduating this spring and has committed to attend Boston University, where she will further her education and play for the Terriers. I know Nia will be missed at Lawrence. She has made the Bulldog community proud. We wish her all the best in her future endeavors. Thank you, Mr. President.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the Chamber Nia Irving, Dominique Lewis, Morgan Boudreau, Molly Folsom, Hunter Mercier, Kiana Letourneau, Brooklynn Lambert, Camryn Caldwell, Cassidy Quint, Olivia Patterson, Varsity Coach John Donato, and Athletic Director Bill MacManus. Would they please all stand and accept the congratulations of the State Senate.

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Establish the Law Enforcement Assisted Diversion Program in Maine"
H.P. 1011 L.D. 1488

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-611)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-611)**.

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

READ ONCE.

Committee Amendment "A" (H-611) **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 **TRANSPORTATION** on Resolve, To Implement the Recommendations of the Commission To Strengthen and Align the Services Provided to Maine's Veterans by Establishing a Pilot Project To Inform the Development of a Long-term Transportation Policy To Assist Veterans
H.P. 1093 L.D. 1602

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-574)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-574)**.

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

READ ONCE.

Committee Amendment "A" (H-574) **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 **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Clarify the Laws Governing Certain Benefits Provided to Veterans and Military Service Members"
H.P. 1098 L.D. 1610

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-583)**.

The 125th consecutive production of Cony High School's Chizzle Wizzle, in Augusta, the longest-running high school production in the United States. The show originated in the 1890s as a football fund-raiser and has evolved into a major part of the Augusta community. The show consists of two halves, Olio and Minstrel. It runs for 4 nights at the end of every March and culminates with the Chizzle Wizzle Ball. The name "Chizzle Wizzle" comes from one of the school's many old cheers: "Chizzle Wizzle, Chizzle Wizzle, sis boom bah! Cony High, Cony High, rah, rah, rah!" We extend to the citizens of Augusta and everyone involved with Chizzle Wizzle our congratulations and best wishes;

SLS 1077

Sponsored by Senator KATZ of Kennebec.

Cosponsored by Representatives: DOORE of Augusta, FOWLE of Vassalboro, POULIOT of Augusta.

READ.

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

Senator **KATZ:** Thank you, Mr. President. Men and women of the Senate, I know there are a couple of Cony High School cheerleaders up in the balcony and will be giving grades for the Secretary shortly. I know we all like to get up and brag about things going on in our own communities, but I really feel that way today. Every fall at Cony High School a group starts meeting to plan a very special traditional at Cony, the Chizzle Wizzle show. This fall that group began for the 125th time to plan that event. It is the oldest high school variety show in the country and certainly one of the best. Almost everyone from the school is involved in one way or another, either performing or backstage or making concessions or helping to promote the show and sell ads. Almost, as I said, every student is involved in one way or another. I'm proud, myself, Mr. President, to be an alumnus of that show and we're lucky to have with us the Executive Committee, this group that plans that show every year, up in the balcony right behind me here. President Morgan Metcalf and the rest of the Executive Committee, I'm very proud to have them here today. Since this happens about the same time as the auction every year, next year I'll be getting up every day and trying to sell tickets to Chizzle Wizzle to all of you next year. Thank you, Mr. President.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the Gallery participants and the producers of Cony High School's 125th consecutive production of Chizzle Wizzle. They are the guests today of the Senator Kennebec, Senator Katz. Would our guests please rise and accept the greetings of the Maine Senate.

REPORTS OF COMMITTEES

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-583)**.

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

READ ONCE.

Committee Amendment "A" (H-583) **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 **HEALTH AND HUMAN SERVICES** on Resolve, To Increase MaineCare Services for Certain Recipients To Allow Them To Remain at Home (EMERGENCY)

H.P. 314 L.D. 475

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-608)**.

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
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 "B" (H-609)**.

Signed:

Senators:

BRAKEY of Androscoggin
McCORMICK of Kennebec

Representatives:

HEAD of Bethel
MALABY of Hancock
SANDERSON of Chelsea

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)**.

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-609)** 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: The Chair recognizes the Senator from Cumberland, Senator Haskell.

Senator **HASKELL**: Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I'd like to do a little bit of history and a little bit of, hopefully, clarification about the differences between the two reports that you see today. I'm going to be speaking to the process by which we came to these conclusions. Back in the turn of the century, 20th Century, from back then until the 60s people with intellectual disabilities and developmental delays were in institutions. We knew about those. Between 1960 and 2010 we created special education. We deinstitutionalized this population. I was in the Legislature when AMHI was closed, which will give you some sense of how long ago it was that I served for the first time. Basically, that set up a kind of one size fits all approach to housing in the community. Most of that was in group homes. They were safe and quiet and away from the public. Between the mid-90s and 2000 incidents of autism markedly increased. Some of that was related to better diagnosis. Section 21 waiver, and you'll hear about 21 and 29. The 29 waiver then became a source of funding for comprehensive services for these clients. By 2006 increasing demand eclipsed funding for that waiver and a wait list was created. As pressure increased to move people off that waiting list, a priority system was created. People with life threatening situations were prioritized. The result of that was an increase in the average cost of that waiver, growing from \$7,000 in 2006 to \$110,000 today. With that one size fits all approach, a person receiving comprehensive services often looked like a 24/7 support in a group home or nothing at all. In 2009 we moved to a better system and created what is the Section 29 waiver. It's similar to 21, but this one was capped at something like 22 hours a week, it's 21.67. For the purposes of what I'm talking about I'm just going to talk about 22 hours. That's the cap. DHHS implemented that change as well. This is excellent progress, but it still leaves this bifurcated system of care. The Section 29 is a transitional model. There are providers there who are providing supports to those individuals who need no more and no less than what their actual diagnosis and needs are. No more and no less. That means you don't have to move into that 24/7 process. This is excellent progress to have a Section 29 waiver, but it still leaves a two level system of care. You either get 22 hours, which will take you up somewhere around \$23,000 of support, or you have to move and jump into the 21 category, which would give you 24/7.

What this bill seeks to do is to help soften that cliff between 21 and 29. I think that it's a really important move. Basically here's what it would do for someone who's mentioned in some of the testimony. Here's a gentleman who has a son with an I.Q. of 42. He might need closer to 40 hours of support to be successful in the community. However, he's unlikely, because of his particular needs, to require 24/7 support. What's happening is that, particularly as parents are getting older, they're looking at their kids who are on this 29 waiver and saying, "Boy, if I had just

a bit more support I could keep this client at home. I could keep my son at home. I could keep my daughter at home and have the services provided to them, but my only option is to move over to a 24/7 institutional-style," which is wonderful support. No reason we shouldn't have it. What really needs to be done, there needs to be a softening of that cliff. That's what this bill intends to do, to provide some additional supports to those clients who are on that 29 system, so they don't have to be moved up to 21. In addition, as you'll hear, I'm sure, later, it also provides additional funding to support the wait list of people who are looking to get onto their Section 21 services.

I urge you to think about what this means for young adults transitioning, maybe, from children to adult services, who are getting children services. Those parents now are faced with many of them not working because they don't have 40 hours of support. Maybe they don't need 40, but 22 is not enough and someone has to leave their job. We are forcing them into a situation where they are moving into places where they have more services than they need and they could be able to stay at home if they could have a little more support at home. I think it's very important that we reject the current motion and move on to the other report. Thank you very much for your time.

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

Senator **BRAKEY:** Thank you, Mr. President. These are very complicated and nuanced issues in terms of understanding the different sections under MaineCare and what one section provides for services versus what another section provides for services. I'm going to try my best to boil it down and simplify this the best I can. With the two sections of MaineCare that we are talking about, Section 29 and Section 21, we're talking about services for adults with intellectual disabilities and autism. Some may remember in the budget last year one of the big priorities of the Administration, the Chief Executive, was fully funding the wait list in Section 21. The report before us would go part ways into funding that wait list, as it was not fully funded in the budget last year. A lot of the debate on the committee is whether or not to focus simply on fully funding Section 21 or if we should also raise the caps on Section 29. Let me explain the difference. In Section 21 an individual enrolled in this program has an assessment, an assessment of their individual needs. There's a lot of work being done to also try to improve that assessment. There is an assessment and they're given a budget based on what they are assessed for needing. In Section 29 the budget that an individual receives for services is not based on an assessment. It is simply that there is a cap, that anyone enrolled in Section 29 has the same cap, the same budget, that they can use all the way up to that budget. This report, the report before us, supports funding the Section 21 wait list where individuals are assessed and receive a budget based on that assessment versus simply expanding caps, giving everyone more resources regardless of what their individualized needs are assessed to be. Again, we spent a lot of time on the Health and Human Services Committee trying to pick through and understand the nuances of these issues. I am doing the best I can to explain it for folks who haven't necessarily been through that whole process. I would encourage the Chamber to support the motion before us, the Minority Ought to Pass as Amended Report, which would go a long ways towards helping to pay off the wait list for Section 21

services for individuals with autism and intellectual disabilities. Thank you very much.

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, the good Senator from Androscoggin is correct. This is complicated. However, I believe there is one area where I would like to suggest that there was a slight error. That is about the assessment. For Section 21 and for Section 29 the assessment requires that there be a completion of what they call the BMS 99 or a current function assessment that is used by the Department. It has to be updated annually. This is not a program that is without assessment of the needs. Secondly, there is a personal planning process. We heard a lot about that in other arenas. The person-centered planning team also has to assess the same way in Section 29 as they do in Section 21. Many, many of the clients in Section 29 are those who are transitioning from their school-based or their youth-based systems into the adult system. That youth-based system has significant numbers of assessments, which follow that child, follow that client, into Section 29, including all of their IEPs, all of the assessments by OTs and PTs that are done as they are moving up through their system from the time of their diagnosis until they reach that transition point where they flip over from the juvenile system into the adult system. There are assessments. They are required by law and they are annual. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I apologize for rising a second time. I just want to clarify something very briefly. Again, we're hearing all these numbers going around: 21, 29. We're hearing a lot. Anyways, 21 has an assessment. This Minority Report supports Section 21. The 21 has an assessment and the budget for the individual is based on the assessment. Section 29 also has an assessment but the budget they receive is not based on that assessment. Everyone gets the same budget cap that they can go up to. This report supports putting more resources into paying off the wait list for Section 21, which would enable more people to have a budget that is based on their actual needs. I'll leave it there. Thank you, Mr. President.

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

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

THE PRESIDENT: The Senator may pose his question.

Senator **BURNS:** Thank you, Mr. President. They are absolutely right. This is a very confusing issue. Not having been part of the committee, I would like to know a little bit more. I guess the question I would pose to anyone who could answer it is, does this report that's in front of us now address that gap that has been mentioned between the 21 and 29 transitioning from childhood to adulthood? Thank you.

THE PRESIDENT: The Senator from Washington, Senator Burns poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I'll do the best I can to answer that. Both of these programs are designed to help people, adults, with intellectual disabilities and autism. If someone's making that transition, both of these programs are designed to help those folks. As we had conversations about this issue, and many of the other issues, the ultimate long-term goal that the Department has expressed, many of the people in the community has expressed, is to do away with Section 29 and to get everyone on to Section 21 where they can have an individualized assessment based on their needs. That's the long-term goal. There's a lot of work that needs to be done before that can happen around the assessment tools that are available, but that's the ultimate long-term goal. The report here before us would support that long-term goal and I hope that answered your question as best I am able to.

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

Senator **HASKELL:** Thank you, Mr. President. Ladies and gentlemen of the Senate, as you might expect, my answer is slightly different than that of my colleague. Committee Amendment "A" does not address the cliff. Committee Amendment "A" adds additional funding to 29 services. I would agree with Senator Brakey that there is an attempt and an effort, and it should be on ongoing effort, in order to combine these two waivers, not to have one that has a cliff that you have to be waiting until you require a certain number of services to go into the other. I would also suggest that that waiting list for Section 21 services are a number of people who are on Section 29 who are pushing up against the top of that cap and concerned that any family event might push them over to needing to move their son or daughter over into Section 21, which they may not need to do if they could have some additional services. One woman in particular, that I remember who came and spoke, has her son at home. They are a fairly young family. They feel as though they have the health and the capacity to work with this young man. He has been communicating with an electronic device. That electronic device broke. He now is without communication, but they have reached their cap. As the good Senator from Androscoggin said, the difference here is that 29 has a cap. If you've spent it, you've spent it. He can't get his piece of equipment replaced so he can communicate. What they're finding is that he's getting very frustrated. He's not able to communicate with his family. He's not able to tell them the things that he needs. They said, "We don't want to put our child in a 24/7 institutional setting just so we can have that communication tool. We would like to think that we might be able to just push that cap up a ways so that we continue to keep him home." That's the difference here. I also think you're going to find that that waiting list for Section 21 is made up of folks who are currently receiving 29 services but have topped out at that cap. They may not need to move up to the \$100,000 Cadillac. They may just need to move up from their Chevy maybe to a Buick for this kid. I think it's really important to understand that what we're seeking to here is to remove that cliff and create more

opportunities for the Section 29 families to be able to keep their families intact. Thank you.

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

Senator **GRATWICK:** Thank you very much, Mr. President. Ladies and gentlemen, I've not been in all the committee hearings for this, but have nonetheless been following this very carefully. As I think everybody is aware, we're entering a major crisis of mental health in the state of Maine. Everybody, I'm sure, has heard from constituents about changes in 17. The takeaway message for this particular one is that the Department needs flexibility. For me, that's the major word, the major process, flexibility. I think that Amendment "A", as far as I can determine, allows a much more graded process as people move between one section and another and not the cliff. Flexibility is where it's at. Thank you very much, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (H-609) 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 (#565)

YEAS: Senators: BAKER, BRAKEY, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MASON, MCCORMICK, ROSEN, WHITTEMORE, WILLETTE, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BREEN, BURNS, DIAMOND, DILL, GERZOFsky, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, SAVIELLO, VALENTINO, VOLK

EXCUSED: Senator: WOODSOME

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-609) Report, in NON-CONCURRENCE, FAILED.**

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608) Report READ and ACCEPTED, in concurrence.**

READ ONCE.

Committee Amendment "A" (H-608) **READ and ADOPTED, in concurrence.**

Under suspension of the Rules, **READ A SECOND TIME** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-608)**, in concurrence.

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Protect and Promote Access to Sport Shooting Ranges"
H.P. 1023 L.D. 1500

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-612)**.

Signed:

Senators:

BURNS of Washington
JOHNSON of Lincoln
VOLK of Cumberland

Representatives:

HOBBS of Saco
EVANGELOS of Friendship
GINZLER of Bridgton
GUERIN of Glenburn
HERRICK of Paris
SHERMAN of Hodgdon
WARREN of Hallowell

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

Signed:

Representatives:

McCREIGHT of Harpswell
MONAGHAN of Cape Elizabeth
MOONEN of Portland

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-612)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-612) **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 **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Assist Maine Citizens Residing along Public Easements"

H.P. 1114 L.D. 1637

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

Signed:

Senator:

LIBBY of Androscoggin

Representatives:

MARTIN of Sinclair
BABBIDGE 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-607)**.

Signed:

Senators:

WHITTEMORE of Somerset
WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales
HARRINGTON of Sanford
ORDWAY of Standish
PICKETT of Dixfield

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.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#566)

YEAS: Senators: BAKER, BRAKEY, EDGECOMB,
HAMPER, KATZ, MASON, MCCORMICK,
ROSEN, SAVIELLO, VALENTINO, VOLK,
WHITTEMORE, WILLETTE

NAYS: Senators: ALFOND, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DILL, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, THE PRESIDENT - MICHAEL D. THIBODEAU

EXCUSED: Senator: WOODSOME

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act Regarding the Distribution and Off-site Storage of Spirits by Licensed Reselling Agents"
H.P. 1031 L.D. 1508

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

Signed:

Senators:
CYRWAY of Kennebec
COLLINS of York

Representatives:
LUCHINI of Ellsworth
GOLDEN of Lewiston
KINNEY of Limington
LONGSTAFF of Waterville
SCHNECK of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-570)**.

Signed:

Senator:
PATRICK of Oxford

Representatives:
DILLINGHAM of Oxford
HANINGTON of Lincoln
MONAGHAN of Cape Elizabeth
SAUCIER of Presque Isle
TURNER of Burlington

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-570)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-570) **READ** and **ADOPTED**, in concurrence.

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

Senate

Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Increase the Number of Science, Technology, Engineering and Mathematics Professionals in the State"

S.P. 676 L.D. 1655

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-446)**.

Signed:

Senators:
LANGLEY of Hancock
MILLETT of Cumberland

Representatives:
KORNFELD of Bangor
DAUGHTRY of Brunswick
FARNSWORTH of Portland
HUBBELL of Bar Harbor
MAKER of Calais
PIERCE of Falmouth
STEARNS of Guilford
TIPPING-SPITZ of Orono

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-447)**.

Signed:

Senator:
EDGECOMB of Aroostook

Representatives:
McCLELLAN of Raymond
POULIOT of Augusta

Reports **READ**.

On motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-446)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-446) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-446)**.

Sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Enable the State To Hire Qualified Applicants for Vital State Jobs"

S.P. 681 L.D. 1664

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

Signed:

Senator:

LIBBY of Androscoggin

Representatives:

MARTIN of Sinclair
BABBIDGE 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**.

Signed:

Senators:

WHITEMORE of Somerset
WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales
HANINGTON of Lincoln
ORDWAY of Standish
PICKETT of Dixfield

Reports **READ**.

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

All matters thus acted upon, with the exception of those matters being held, 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 Clarify Financial Responsibility in Gestational Carrier Agreements

S.P. 594 L.D. 1532
(C "A" S-427)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senator having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and, having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Acts

An Act To Allow the Public Utilities Commission To Contract for Liquefied Natural Gas Storage and Distribution

H.P. 600 L.D. 881
(C "A" H-600)

An Act To Protect Victims of Sexual Assault

S.P. 575 L.D. 1477
(C "A" S-436)

An Act To Encourage Roller Derby

H.P. 1062 L.D. 1559

An Act To Protect Maine Voters from Intimidating Video Recording at the Polls

S.P. 625 L.D. 1574
(S "A" S-431 to C "A" S-366)

An Act To Implement the Recommendations of the Task Force To Ensure Integrity in the Use of Service Animals

H.P. 1092 L.D. 1601
(C "A" H-590)

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

Ordered sent down forthwith.

An Act To Amend Maine's Genetically Modified Food Products Labeling Law

H.P. 686 L.D. 991
(C "A" H-596)

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

An Act To Modernize and Consolidate Court Facilities

S.P. 590 L.D. 1528
(C "A" S-437)

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

An Act To Continue To Provide Group Exemption Passes to State Parks for Persons with Disabilities and To Ensure Transparency for Certain Fees

H.P. 1075 L.D. 1584
(C "A" H-599)

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

An Act To Exclude from Sales Tax Certain Sales by Civic, Religious and Fraternal Organizations

S.P. 651 L.D. 1613
(C "A" S-430)

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

An Act To Eliminate Inactive Boards and Commissions

H.P. 1103 L.D. 1624
(C "A" H-598)

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

An Act To Simplify and Expand the Educational Opportunity Tax Credit

S.P. 678 L.D. 1657
(C "A" S-438)

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

Resolve

Resolve, Directing the Department of Health and Human Services To Amend Its Rules Governing Reimbursement to Hospitals for Patients Awaiting Placement in Nursing Facilities

S.P. 659 L.D. 1621
(C "A" S-433)

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

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later Assigned (3/22/16) matter:

HOUSE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act To Modernize Road User Fees"

H.P. 771 L.D. 1110

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-563)**

Tabled - March 22, 2016, by Senator **COLLINS** of York

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

(In House, March 17, 2016, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-563).**)

(In Senate, March 22, 2016, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-563) **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 (3/23/16) matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Strengthen the Laws on Operating a Motor Vehicle under the Influence of Intoxicants"

S.P. 661 L.D. 1628

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-420)** (5 members)

Tabled - March 23, 2016, by Senator **ROSEN** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 23, 2016, Reports **READ**.)

Senator **ROSEN** of Hancock moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

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

Senator **BRAKEY**: Thank you, Mr. President. I rise today in opposition to the passage of the Minority Ought to Pass Report for one simple reason; the measures contained in this bill are not grounded in science. This allows law enforcement to draw blood from a driver to determine THC levels in the individual's system and enter it into evidence for charging an individual with DUI. There are many problems with this. The primary flaw behind this proposal is the fact that THC in a person's blood is not a reliable indicator of impairment. The threshold this bill sets is 5 nanograms of THC in the blood, but that threshold means little from person to person. On one side of this threshold this law would cause us to incriminate individuals who are not impaired and a person who uses cannabis regularly for treatment of serious medical conditions, as is allowed under Maine State law, can have a THC blood level significantly above 5 nanograms at all times and yet not experience any impairing effects as a result of that THC. In addition to this, THC can remain in an individual's bloodstream for weeks, triggering a positive result in a blood test after many days of abstinence, while not causing any impairment to the individual. Imagine a completely legal medical cannabis patient taking their medication days ago before being pulled over but being charged with DUI because a blood test came up positive. Imagine if we treated alcohol this way. Imagine if you had a few drinks of alcohol a week before driving a vehicle. Obviously, you would not be impaired from drinks a week prior but that didn't matter because the law says you should be charged with DUI. Would we stand for that as reasonable policy? Of course we wouldn't. Also on the other side of this threshold, and I think this is where maybe some advocates for this policy may really want to stop and consider, a recreational marijuana user who doesn't consume marijuana regularly can easily be impaired by less than 5 nanograms of THC in their system. In Colorado, for example, hundreds of cases are being thrown out due to the fact that a driver was showing signs of impairment but tested positive for less than 5 nanograms of THC. Someone who

is impaired, who shouldn't be behind the wheel of a vehicle, gets off because they are underneath this artificial threshold. The end result of this policy is we'll be punishing drivers who are not impaired while giving those who are significantly impaired behind the wheel legal cover because they were under the arbitrary 5 nanograms threshold. I think there are better methods to determine impairment and enforce against DUI than this. In short, this policy makes little sense. Not only is it a violation of civil liberties to take an individual's blood, it is a violation that does not make anyone safer on the roads. It is the illusion of safety, but not safety. It is wishful thinking, but not science. I encourage the Chamber to reject the motion. Thank you, Mr. President.

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

Senator **GERZOFSKY**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I believe in the committee process pretty well and the committee looked at this bill, worked it a lot. It's just not ready for prime time. This isn't the right bill for the right time. None of us what to see anybody driving impaired on anything. I don't care if you're drinking too much coffee. If you're impaired you shouldn't be driving. You have to have some sort of a standard, some sort of a measure that's accurate and can help law enforcement not hinder them. Right now we don't have any accurate testing. Right now we're going to be drawing blood out of people, which I have a problem with, to take a test that nobody can say is accurate. Nobody can say how effective it's going to be. Mr. President, I move Ought Not to Pass on this motion and maybe we can get onto another motion. Thank you very much, Mr. President.

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

Senator **GRATWICK**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I, too, rise in opposition to the current motion, just agreeing with my two prior colleagues. The assays that are now used for over 150 metabolites of cannabinoids are not accurate and are not standardized. There are at least seven different laboratories that have come up with assays that I know about, that I've seen recently. There different laboratories and different assays. There is gas chromatography, there's high pressure liquid chromatography. Many different ways to do this, but the long-short of it is that numbers are not accurate and I think putting a law in effect that is based on inaccurate science would be inappropriate. Thank you, Mr. President.

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

Senator **CYRWAY**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to touch a little bit about OUIs in general. You don't just test for alcohol, you don't just test for THC, which is delta-9 tetrahydrocannabinol. This basically is a test that comes after the fact when an officer pulls someone over. They have to do a sobriety test because they had a 51% chance for probable cause when they pulled them over. First they have to have some evidence that the person was under the influence of something. If they cross the line twice or maybe they're driving at night with no headlights on, or maybe they're all over the road, maybe they almost hit another vehicle. There is

some reason why they have to pull someone over. Secondly, you have to make sure that when you go and do a sobriety test you're going to have some evidence of maybe just how the person is acting, how they talk, those types of things. You kind of gain evidence as you go. Then you get them out of the car if you feel that they are possibly under the influence and do a sobriety test. You have to do three different tests. Once you do the sobriety test, and you feel that they are at some point under the influence of a drug of some sort or alcohol, than you're going to probably end up taking them to do an alcohol breathalyzer test. If they don't have any alcohol, it doesn't show there's any alcohol or maybe very little, and the person is showing signs of being inebriated, than you are going to say you're going to have to do some other tests. There could be other circumstances. There could a circumstance of somebody having diabetes, diabetic type situation, where their sugar levels could be off and cause this. You could have a drug that they are prescribed on and you can always ask them if they have any prescription drugs and whatever they've been taking or whatever. Then it would go to possibly the test that would have to show the THC level or the drug that they were taking. Most of the time blood tests are not taken unless there's an accident. If there's an injury, we can't do a breathalyzer test on them. We have to have a blood test if there are any injuries. It takes steps to get to this point. It's not like we take a test and say, "Oh, you've got too much THC so you're under the influence," and then do the sobriety test. It doesn't work that way. I just wanted to make sure, Mr. President, that we all knew how it worked. Thank you, Mr. President.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I would ask you to support the Minority Ought to Pass Report. I do that for a couple of reasons. First off, operating under the influence means operating under any influence, whether it's prescribed medication, whether it's alcohol, whether it's marijuana. No matter what it is, the OUI law is just that, operating under the influence. The sad part of these OUI accidents and tragedies are that victims are all innocent. Someone comes over the top of a hill, they're in the middle of the road, they hit somebody who had no idea what was going to happen to them, and it's all innocent victims. I think we need to understand that OUI is a serious, serious offense. I would also say to you that we've been fighting OUIs since back in the 80s. We've made some tremendous advances in this area. We know that we've made advances because the numbers are dropping, because we are very stringent about our penalties. We also know that marijuana can, in fact, influence one. One can become intoxicated by having too much, whatever that much is, of marijuana. For us to say, and to ignore, that that could be a problem and turn our backs on this problem doesn't make sense. I would ask you to remember that all operating under the influence, for whatever reason, we need to hit head on and I would say to you that I would like to also remind you that this whole purpose of discussing the marijuana levels, the nanograms, and all of that, the bottom line is someone can be under the influence with marijuana and they can cause a tragedy to innocent victims and I would ask you to support the Minority. We need to get this started. We can't turn our backs on people who are on the roads driving under the influence. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, I respect all the colleagues who have spoken and there is no excuse for driving under the influence of something that is distracting, that is causing a problem with driving that affects other people. Nobody's arguing for that. It seems that there is no state that has a set level because, as some of my colleagues talked about, it doesn't match the standards for science. It isn't a party line thing to have a question about this bill because we want the science to be accurate. The committee that was tasked with putting together this number really didn't have agreement. They just felt like they had to report something out. There was a lot of disagreement about this right at the base level. Colorado's been working at this longer and still hasn't come up with a solution because this is not science. Everything that was mentioned about the effects of operating under the influence; someone could defend that they weren't under the influence for less than the 5 nanograms, and they could be wrong. Someone could be tested later, much later than their using the product, whether it was medical marijuana or legal marijuana if they were in another state, and it could come back positive when they're not impaired. We've determined a level with alcohol, the .08. At first that seemed draconian but there was plenty of proof. We had independent testing of that number, people impaired to that number and higher and lesser numbers. That seemed to be something we could agree upon. This is nothing that we can agree upon. It's just a random number pulled out of the air. Let's make Maine the first to pick the random non-science number because operating under the influence and hurting innocent people is horrible thing, if anybody supports that I'd like to talk to them, but it's not enough to make up something as a number and throw it out there without really working this properly and working with other states to do it. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the pending motion. I think every one of us is really concerned about drivers who are impaired. I'm amazed that we're at this point with the proposal before us, however, with 5 nanograms. That's 5 billion of a gram. Science doesn't tell us that that means someone is impaired. No other states are here. One state's considering a study, research, not just people sitting around the table talking about it, to try and determine how they can establish impairment for marijuana. We haven't done that and what this report contains doesn't represent that sort of information. As a Body, we failed to pass something that research shows is far more impairing than being drunk, texting while driving, and yet here we are saying that we want to consider someone impaired for a level of substance in their blood that is not proven to mean they are impaired. There is no reliability to that figure. I think we have to take a moment to realize that it really is about impairment and whether there is certainty in that because people take prescription drugs for pain all the time. Can one say that they're under the influence of that or not? It depends entirely on the level and we do not criminalize someone having a prescription pain pill, taking the prescribed

amounts, and yet here we are about to say that someone, whether for medicinal reasons or not, legally taking a substance that in an amount that we have not established means they're impaired, should be treated under the laws impaired because of that. I'm sorry. I very much would love us to do something about impaired drivers. I just don't believe that we should be putting people in jail or charging them with criminal activity who are, in fact, not impaired. I think if this state is serious about dealing with this matter we should be looking to fund some research like other states are considering today and get to the bottom of what the right way is to do this. Thank you, Mr. President.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, when it comes to prescription drugs, illegal drugs, it doesn't matter. If you're impaired, you're impaired. If you get into an accident and you was under the influence and you caused the accident and you was impaired, there's evidence of impairment, whatever it is, we have to do our job to take care of the situation, to protect the families that get hurt from these serious situations. I've had to go to these situations where serious accidents have happened, where people have lost their lives or they've lost limbs or lost their children, and we have to be responsible when it comes to OUIs. OUIs are not just an easy thing of saying, "Okay, the person showed signs of being all over the road." There might be other factors there. Maybe there were signs of being across the line or whatever, but then they cause a serious accident and then we may have to go to other steps. This is just one of the steps. It happens even for prescription drugs. Then we let the courts decide if that was an OUI, a legal OUI, or not. We really need pieces to put together. This is just one of the pieces. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you, Mr. President. I feel compelled to respond to that. The difference is, Mr. President, that when we get a prescription pain killer, or other drugs for that matter, those are pretty well researched. There are advisories on the bottle that tell you if the dosage that you are prescribed means that you should not be driving. We have that information. We don't have that information for 5 nanograms of THC in the blood. We should not be making this a crime before we know what impairment means. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you, Mr. President. I would like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose his question.

Senator **GERZOFSKY:** Thank you, Mr. President. Simple question, if you're driving erratic down the road, you haven't had too much coffee, you haven't had any marijuana, you haven't had too much to drink, is there still a charge that you could be pulled over and cited?

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, the answer to that, of course, obviously is yes. Whether you are under the influence or not, if you're driving distracted or if you're driving in a manner that is not safe, of course you can be pulled over. I would take this opportunity, Mr. President, to say that the good Senator from Lincoln, Senator Johnson, made some good points. I would just point out that whether the prescription bottle, of pain killers, says you should or should not drive is irrelevant. If you are influenced by that medication you are OUI. Simple as that. We do have the measurement; we have the police officer on the road. I'd also say getting to a level takes time. Don't forget, we started with OUI at .1. Then we backed it back to .08. Why? Because we learned more about it. We didn't avoid putting in a measurement because we weren't at the right point at a specific time. Again, I would urge you to support the Minority Ought to Pass. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Rosen 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 (#567)

YEAS: Senators: BAKER, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, EDGEComb, HAMPER, HILL, LANGLEY, LIBBY, MCCORMICK, ROSEN, SAVIELLO, VOLK, WHITTEMORE, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BRAKEY, DILL, GERZOFSKY, GRATWICK, HASKELL, JOHNSON, KATZ, MASON, MILLETT, MIRAMANT, PATRICK, VALENTINO, WILLETTE

EXCUSED: Senator: WOODSOME

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **ROSEN** of Hancock to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-420) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (3/23/16) matter:

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Provide Relief to Maine Ratepayers"

S.P. 484 L.D. 1339

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-424)** (5 members)

Tabled - March 23, 2016, by Senator **MASON** of Androscoggin

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

(In Senate, March 23, 2016, Reports **READ**.)

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#568)

YEAS: Senators: **BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGEComb, HAMPER, KATZ, LANGLEY, MASON, MCCORMICK, ROSEN, SAVIELLO, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT - MICHAEL D. THIBODEAU**

NAYS: Senators: **ALFOND, BREEN, DIAMOND, DILL, GERZOFsky, GRATWICK, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO**

EXCUSED: Senators: **HASKELL, WOODSOME**

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **WOODSOME** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-424) **READ** and **ADOPTED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (3/23/16) matter:

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Relating to Penalties for Drug Offenses"

S.P. 672 L.D. 1647

Report **"A" - Ought Not to Pass** (7 members)

Report **"B" - Ought to Pass as Amended by Committee Amendment "A" (S-425)** (5 members)

Report **"C" - Ought to Pass as Amended by Committee Amendment "B" (S-426)** (1 member)

Tabled - March 23, 2016, by Senator **ROSEN** of Hancock

Pending - motion by same Senator to **ACCEPT** Report **"B" OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-425)**

(In Senate, March 23, 2016, Reports **READ**.)

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

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

Senator **BRAKEY:** Thank you, Mr. President. I rise today in opposition to this motion. A first time DUI already results in an automatic suspension of an individual's license for 5 months. We can have a debate about whether or not that, itself, is proper or excessive, but already that's what's in place, 5 months. I think in many cases with these suspensions the argument is made to let's make the suspensions longer and longer. I think that often sounds good on paper until we encounter how they impact the lives of real people. I have a local constituent who recently faced this. A mother of three with a perfectly clean record, never been in trouble before. She had just started a new job, working to pay the bills and keep a roof over her kids' head. Then she made a mistake. She was responsible for it. Absolutely. She made a mistake. She got behind the wheel of a car when she shouldn't have and got in trouble for DUI. Suddenly facing a 5 month license suspension, she had to ask, "How will I get to work? Will I have to quit my new job? If I do manage to get a provisional license to get to and from work, how can I get the kids to daycare when I am at work?" Make no mistake, is DUI a crime? Yes. Should there be penalties for this crime? Absolutely. We should also ask; how can we best fit the penalty to the crime? Should we, for an entire half a year, take away the ability of an individual with a completely clean record to drive to work and drop the kids

off at daycare for a first offense? I contest that the penalty is excessive and the same lesson can be learned without such an excessive penalty.

Mr. President, I also want to take the argument one step further because I cannot pass over an opportunity to criticize what amounts to an egregious abuse of power by the federal government in this. We have heard from some that we must pass this legislation because if we don't the federal government won't give us some federal highway funds. I think it's worth asking the question; whose money is that again? Did the federal government earn this money? No, of course not. It's our money. They took it from the hardworking taxpayers of Maine. We see this time and again, the federal government takes our money directly from the wallets of Maine people just to ransom it back to us with strings attached, twisting our arm and compelling us to adopt policy, not because it is good policy for the people of Maine but because we just want a piece of our own money back. Mr. President, if we opened up the United States Constitution, the compact between the states where we created the federal government and delegated specifically enumerated powers to it, nowhere would we see an authority delegated to the federal government allowing them to dictate what state policy must be in regards to how long we should suspend an individual's driver's license on a first offense for DUI. I would assert that this is federal government run amuck. This is micromanagement by the federal government to a degree the framers of our republic would have been appalled to witness. This is specifically why they adopted the 10th Amendment, explicitly stating that the powers not expressly delegated to the federal government remain with the states and the people respectively. The only way the federal government will stop doing this is if the states begin to say no to these tactics. I will contest that we should not consider the federal government on this matter. They have no authority here. Let's exclusively consider whether or not this is good policy for the people of Maine and if you come on the side of that saying it is, so be it. I would contest today to that regard that it is not good policy. For those reasons, I oppose the motion and I hope my colleagues in the Chamber will agree. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, there's one line in the bill that's like the person convicted of the crime specified in Title 17A, Chapter 45, except for Section 1116, does not have a driver's license or the person's driver's license is already suspended, requires the court to delay the issue until reinstatement of the license of that person for at least 6 months after the person applies for issuance or reinstatement of the driver's license. We've got a new one to talk to the kids about. You've got some 14 years old hanging out with some people. The parents are not supervising and they may be using some illegal drugs and they get a hold of a little and they are caught out behind the school yard saying, "What is that stuff in there?" Suddenly they're caught. I'm sure as soon as they hear about this bill and know that when their 16, a couple of years from now, that their license is going to be delayed 6 more months, we have stopped the drug problem. We finally found the answer. It's right there in Section 3 of the summary of this bill. Give me a break. Let's get back to reality here. My colleague made some good points I won't repeat. Thank you.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise before you today in support of the Minority Ought to Pass as Amended Report on L.D. 1647, An Act Relating to Penalties for Drug Offenses. As amended, this bill increases the driver's license suspension period from 150 days to 180 days for a person who is convicted of operating under the influence and who has had no previous operating under the influence convictions within a period of 10 years. There does exist in federal law an exception based on compelling circumstances that can be decided by the court. Passing this bill will conform Maine Statutes to federal law and will ensure that Maine remains eligible for approximately \$13 million in federal funding that supports our roads and bridges. This funding is crucial to our state. I believe this bill also shows that we, as a state, take operating under the influence extremely seriously. This increased suspension time will serve as a deterrent to those who may be considering driving while under the influence. We are facing a drug epidemic in our state and if we can take steps to keep those who decide to drive while under the influence off the roads I believe we should do that. For those who are concerned about a hardship that a 180 days license suspension, that could cause an individual who might struggle to get to work without a license, there are provisions already in place for individuals who contact the Secretary of State's Office for a provisional work license. I also heard about a mother driving drunk and having three children, that they shouldn't have their license suspended, or at least not suspended another 30 days. I think it's pretty serious, to be out there drunk driving and you have this responsibility for three children. When I was a DARE officer I had a student in my 8th grade that stood up in front of the class. What happened is she was in a soccer field playing and she had been picked up by her parent. Her parent was under the influence. She picked her up and they were driving in back of the school bus all over the road. The kids on the back of the school bus were waving to them and saw the parent all over the road and the daughter was just scared and also to the point where she was embarrassed and whatever. All of a sudden the lady went off the road and hit a telephone pole right behind the school bus. The child was not far from home, so she got out of the car and ran to the house and hid under a bed. The mother got arrested. The day after, when the daughter came back to school, I had her in DARE class and I never knew this even took place. She stood up in front of the class several years later, three years later because I had her in 5th grade and I had her in 8th grade, in 8th grade she told the class how being in DARE helped her get through it because she said that she never could believe how scared she was, not only for her but her mother when she went to jail and whatever. These are serious situations. We affect a lot of people. All the kids on the bus felt really bad for this little girl and the parents. I'm just saying that this, for a 30 day period, most people have two and three cars, four cars, in their parking lot. They can get a permit. It's not that somebody couldn't get the kids to daycare or to the school. There are ways. This is just going to be 30 more days and if it would give us \$13 million released for our transportation bridges and roads. I would take my son's license away if I thought that he was under the influence. I wouldn't hesitate in a minute. I don't see what the problem is when you see a 14 year old or 15 year old out there

drunk driving and then he's going to lose his license for another 6 months. That wouldn't bother me in a bit. I think they have to learn, they have to be responsible. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm going to be a little bit different than the previous speaker and talk about what this bill is. This bill has nothing to do with the driving offense. It has nothing to do with the motor vehicle offense. This bill has to do with suspending a driver's license for a non-driving arrest. If you get busted for drugs, no matter how, when, where, or anything, ten miles away from the car, 100 miles away from the car, this bill calls for a license suspension. That's not what we do in the state of Maine. We don't suspend licenses for non-driving violations. This was the biggest argument that we had in the committee. This is when the Secretary of State's Office came in and talked to us about the very few carve-outs, such as suspending a license on not paying child support. We don't suspend licenses for non-driving offenses. Maine is a pretty rural state. We don't have a lot of public transportation in parts of our state. Pulling a driver's license in the state of Maine is serious, even if it's only for 30 days. You can lose your job because you can't get back and forth to work. At least be committing a driving offense to lose your license. Don't just lose your license or have somebody take your license for a non-moving violation, non-vehicle offense. It has nothing to do with the driver's license or your car. It has to do with being arrested at a party for something. It has to do with being arrested for a drug violation of who knows what. It has nothing to do with a moving violation. I find it offensive when we try to turn it into that because that was clearly debated in the committee. That was clearly talked about by the Secretary of State's Office when he came in to see us. Over the years I sat on the committee that looked at suspending 5th grader's driver's licenses, only they hadn't had a license then. I asked the question to the committee back then. It was the superintendent of schools who thought that was a good idea if a kid misbehaved in school to pull the driver's license even if they're in the 5th grade so that when they turned 16, as if they're going to think that far ahead, they would lose their driver's license. This bill has an opportunity for the Governor to get away, like he's done in the past, from the federal government. That's what most of the states are doing, if not all the states. I want to thank you very much, Mr. President, for giving me the opportunity to speak so briefly.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, just briefly, I would say the Secretary of State currently opposes this bill, as I do, for the same reason that previous Secretary of States for the past 30 years, whether they've been Republican or Democrat, have opposed the bill; because, again, once we start using the driver's license for a non-driving offense that's slope becomes very, very slippery. You've heard from the good Senator from Cumberland, Senator Gerzofsky, about some of the previous attempts. There's been more. We've had bills put in over the past 30 years to try to take away someone's license not only if their grades were bad but if teachers misbehaved or someone didn't pay their credit card. It

goes on and on. Once we open that door it becomes a serious, serious problem. Again, Legislatures over the past 30 years have always rejected this attempt. Regarding the highway funds of \$13 million, not a problem. All we have to do, the current Governor just has to do what the previous Governors McKernan, King, Baldacci did, simply ask for the waiver. It's granted and the \$13 million is safe. Thank you, Mr. President.

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

Senator **KATZ:** Thank you, Mr. President. I rise with a question for anyone who might choose to answer because I'm confused. I've now heard two members, whose opinions I very much respect, say that this report is direct at non-driving offenses. Yet, as I look up the report, it seems that it does apply to driving offenses. I wonder if others might share my confusion, but if someone could just bring clarity to that issue, I would ask that.

THE PRESIDENT: The Senator from Kennebec, Senator Katz poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Washington, Senator Burns.

Senator **BURNS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I hope I don't get deeper in the hole here, but the original bill called for suspension of driver's licenses for conviction of trafficking in drugs. As I read the report that's before us right now, that we're supposed to be debating, the amendment, Amendment "B", increases the penalties from 150 to 180 days for an OUI or an operating under the influence conviction. That's the way I read the amendment. The amendment is a little bit different from the original bill. I'd like to go on, if I may.

THE PRESIDENT: The Chair would advise the Senate that we're talking about Report "B", Committee Amendment "A". The Senator may proceed.

Senator **BURNS:** Thank you, Mr. President. I'll cease.

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

Senator **GERZOFSKY:** Thank you, Mr. President. I would just like to quickly just read that this bill requires a court to suspend for a minimum of 6 months the driver's license of a person convicted of a crime specified in Maine Revised Statutes Title 17; for 6 months the driver's license of a person convicted of the crime of possession or furnishing drugs. This is a drug bill. This is not a motor vehicle operating bill. This is about what you get busted for someplace else. Thank you very much, Mr. President.

Senator **DAVIS** of Piscataquis inquired if Committee Amendment "A" (S-425) was **GERMANE**.

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **RULING OF THE CHAIR**. (Roll Call Ordered)

Senate at Ease.

Senate called to order by the President.

On motion by Senator **LANGLEY** of Hancock, **ADJOURNED** until Thursday, March 31, 2016, at 10:00 in the morning.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act To Protect Children in the State from Possible Sexual, Physical and Emotional Abuse by Persons Who Have Been Convicted of Crimes"

H.P. 1154 L.D. 1689

Committee on **HEALTH AND HUMAN SERVICES** suggested and ordered printed.

Comes from the House, **REFERRED** to the Committee on **JUDICIARY**.

Senator **HAMPER** of Oxford moved to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

Same Senator requested and received leave of the Senate to withdraw his motion to **REFER** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

On motion by Senator **CUSHING** of Penobscot, **REFERRED** to the Committee on **JUDICIARY** and ordered printed, in concurrence.

Bill "An Act To Assist Small Distilleries"

H.P. 1152 L.D. 1687

Bill "An Act To Amend the Laws Governing Funding of Maine Clean Election Act Candidates"

H.P. 1153 L.D. 1688

Come from the House, **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** and ordered printed.

On motion by Senator **CYRWAY** of Kennebec, **REFERRED** to the Committee on **VETERANS AND LEGAL AFFAIRS** and ordered printed, in concurrence.

Off Record Remarks

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