

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Ninth Legislature

State of Maine

Daily Edition

First Regular Session  
beginning December 5, 2018

beginning at Page 1

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

In Senate Chamber  
Thursday  
June 13, 2019

Senate called to order by President Troy D. Jackson of Aroostook County.

Prayer by Pastor Henry Cooper, Fayette Baptist Church.

**PASTOR COOPER:** Good morning. Thank you for the opportunity I have to open the session in prayer. Sounds like you have a lot on the table to do today. Please join with me. Lord, God, thank You for this day and I thank You for these men and these women who have been given both the privilege and the responsibility to represent the citizens of Maine. Lord, I pray that they would have wisdom and discernment to know what is the right thing to do, that they would try their absolute best to collaborate, work together as body in order to keep moving our state forward. I pray that they never lose the deep-seated conviction that what they do really does matter. May they truly believe that the decisions they make are absolutely best for the people they serve, especially for the generations that will follow us. Thank You for Your example of love, a love that serves, a love that sacrifices for the benefit of others. Lord, knowing we all make mistakes, I pray that we be quick to admit our failures, ask for and freely offer forgiveness, and grace when needed. All we seek in Your divine guidance. Lord, I pray above all that that we do Your will, to act justly, to love mercy, and to walk humbly before our God. To You be the praise and glory forever I ask. Amen.

Pledge of Allegiance led by Senator Erin D. Herbig of Waldo County.

Reading of the Journal of Wednesday, June 12, 2019.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

H.P. 583 L.D. 795  
(C "A" H-430)

In Senate, June 5, 2019, on motion by Senator **DILL** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)** in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430) AND HOUSE AMENDMENT "A" (H-541)** in **NON-CONCURRENCE**.

Senator **LIBBY** of Androscoggin moved the Senate **RECEDE** and **CONCUR**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **RECEDE** and **CONCUR**.

**Non-Concurrent Matter**

Bill "An Act To Create an Additional Pathway To Certify Industrial Arts Teachers To Foster Career and Technical Subjects in Maine Schools"

H.P. 991 L.D. 1369  
(C "A" H-473)

In Senate, June 12, 2019, **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED** on its former action whereby the Bill **FAILED ENACTMENT**.

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

**Non-Concurrent Matter**

Resolve, Directing the Department of Agriculture, Conservation and Forestry To Convey Certain Lands to Roosevelt Conference Center Doing Business as Eagle Lake Sporting Camps

H.P. 107 L.D. 125  
(C "A" H-303)

In Senate, June 12, 2019, **FINALLY PASSED** in **NON-CONCURRENCE**.

Comes from the House, that Body having **INSISTED** on its former action whereby the Resolve **FAILED FINAL PASSAGE**.

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

**COMMUNICATIONS**

The Following Communication: S.C. 599

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

June 12, 2019

The Honorable Troy Dale Jackson  
President of the Senate of Maine  
129th Maine State Legislature  
State House  
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Energy, Utilities and Technology has had under consideration the nomination of Philip Bartlett, II of Portland, for appointment to the Public Utilities Commission.

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

YEAS	Senators	3	Lawrence, M. of York, Miramant, D. of Knox, Woodsome, D. of York
	Representatives	8	Berry, S. of Bowdoinham, Caiazzo, C. of Scarborough, Doudera, V. of Camden, Foster, S. of Dexter, Grohoski, N. of Ellsworth, Kessler, C. of South Portland, Riley, T. of Jay, Rykerson, D. of Kittery
NAYS	Senators	0	
	Representatives	1	Hanley, J. of Pittston
ABSENT		1	Rep. Grignon, C. of Athens

Eleven members of the Committee having voted in the affirmative and one in the negative, it was the vote of the Committee that the nomination of Philip Bartlett, II of Portland, for appointment to the Public Utilities Commission be confirmed.

Signed,

S/Mark W. Lawrence  
Senate Chair

S/Seth A. Berry  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 158, and with Joint Rule 506 of the 129<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#295)**

YEAS: Senators: CYRWAY, FARRIN, FOLEY, GUERIN,  
HAMPER, POULIOT, TIMBERLAKE

NAYS: Senators: BELLOWS, BLACK, BREEN,  
CARPENTER, CARSON, CHENETTE, CHIPMAN,  
CLAXTON, DAVIS, DESCHAMBAULT, DIAMOND,  
DILL, DOW, GRATWICK, HERBIG, KEIM,  
LAWRENCE, LIBBY, LUCHINI, MILLETT,  
MIRAMANT, MOORE, ROSEN, SANBORN H,  
SANBORN L, VITELLI, WOODSOME, PRESIDENT  
JACKSON

7 Senator having voted in the affirmative and 28 Senators having voted in the negative, and 7 being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Philip Bartlett, II** of Portland for appointment to the Public Utilities Commission was **CONFIRMED**.

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

**THE PRESIDENT:** The Chair would like to recognize in the rear of the Chamber the Honorable Philip Bartlett. Would he please rise and accept the congratulation of the Maine Senate.

The Following Communication: S.C. 600

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

June 12, 2019

The Honorable Troy Dale Jackson  
President of the Senate of Maine  
129th Maine State Legislature  
State House  
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of The Honorable Richard Rosen of Bucksport, for appointment to the Maine Indian Tribal-State Commission.

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

YEAS	Senators	3	Carpenter, M. of Aroostook, Bellows, S. of Kennebec, Keim, L. of Oxford
	Representatives	10	Bailey, D. of Saco, Babbidge, C. of Kennebunk, Cardone, B. of Bangor, Curtis, P. of Madison, DeVeau, J. of Caribou, Evangelos, J. of Friendship, Haggan, D. of Hampden, Harnett, T. of Gardiner, Reckitt, L. of South Portland, Talbot Ross, R. of Portland

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of The Honorable Richard Rosen of Bucksport, for appointment to the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Michael E. Carpenter  
Senate Chair

S/Donna Bailey  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 158, and with Joint Rule 506 of the 129<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#296)**

YEAS: Senators: None

NAYS: Senators: BELLOWS, BLACK, BREEN,  
CARPENTER, CARSON, CHENETTE, CHIPMAN,  
CLAXTON, CYRWAY, DAVIS, DESCHAMBAULT,  
DIAMOND, DILL, DOW, FARRIN, FOLEY,  
GRATWICK, GUERIN, HAMPER, HERBIG, KEIM,  
LAWRENCE, LIBBY, LUCHINI, MILLETT,  
MIRAMANT, MOORE, POULIOT, ROSEN,  
SANBORN H, SANBORN L, TIMBERLAKE, VITELLI,  
WOODSOME, PRESIDENT JACKSON

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of the Honorable **Richard Rosen** of Bucksport for appointment to the Maine Indian Tribal-State Commission was **CONFIRMED**.

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

The Following Communication: S.C. 601

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

June 12, 2019

The Honorable Troy Dale Jackson  
President of the Senate of Maine  
129th Maine State Legislature  
State House  
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Robert Checkoway of Freeport, for appointment to the Maine Indian Tribal-State Commission.

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

YEAS	Senators	3	Carpenter, M. of Aroostook, Bellows, S. of Kennebec, Keim, L. of Oxford
	Representatives	10	Bailey, D. of Saco, Babbidge, C. of Kennebunk, Cardone, B. of Bangor, Curtis, P. of Madison, DeVeau, J. of Caribou, Evangelos, J. of Friendship, Haggan, D. of Hampden, Harnett, T. of Gardiner, Reckitt, L. of South Portland, Talbot Ross, R. of Portland

NAYS 0

ABSENT 0

Thirteen members of the Committee having voted in the affirmative and zero in the negative, it was the vote of the Committee that the nomination of Robert Checkoway of Freeport, for appointment to the Maine Indian Tribal-State Commission be confirmed.

Signed,

S/Michael E. Carpenter  
Senate Chair

S/Donna Bailey  
House Chair

**READ and ORDERED PLACED ON FILE.**

The President laid before the Senate the following: "Shall the recommendation of the Committee on **JUDICIARY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 158, and with Joint Rule 506 of the 129<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#297)**

YEAS: Senators: None

NAYS: Senators: BELLOWS, BLACK, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, CLAXTON, CYRWAY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, DOW, FARRIN, FOLEY, GRATWICK, GUERIN, HAMPER, HERBIG, KEIM, LAWRENCE, LIBBY, LUCHINI, MILLETT, MIRAMANT, MOORE, POULIOT, ROSEN, SANBORN H, SANBORN L, TIMBERLAKE, VITELLI, WOODSOME, PRESIDENT JACKSON

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Robert Checkoway** of Freeport, for appointment to the Maine Indian Tribal-State Commission was **CONFIRMED**.

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

The Following Communication: S.C. 595

**STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
HOUSE OF REPRESENTATIVES  
SPEAKER'S OFFICE**

June 12, 2019

The Honorable Darek Grant  
Secretary of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear Secretary Grant:

Pursuant to my authority under House Rule 201.1 (l) (a), I have appointed Representative Stephen W. Moriarty of Cumberland to the Joint Standing Committee on Innovation, Development, Economic Advancement and Business replacing Representative Ryan M. Fecteau of Biddeford, effective immediately.

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

Sincerely,

S/Sara Gideon  
Speaker of the House

**READ and ORDERED PLACED ON FILE.**

The Following Communication: S.C. 597

**STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
OFFICE OF THE PRESIDENT  
AUGUSTA, MAINE**

June 12, 2019

Darek M. Grant  
Secretary of the Senate  
3 State House Station  
Augusta, ME 04333

Dear Secretary Grant:

Pursuant to my authority under Title 29-A MRSA, Chapter 11, §1402-B, I am pleased to appoint John Coniaris to seat number 6 on the Organ Donation Advisory Council. His appointment is effective the date of this letter.

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

Sincerely,

S/Troy D. Jackson  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

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

**ORDERS**

**Joint Order**

Expressions of Legislative Sentiment recognizing:

Patricia Clark, of Unity. Professor Clark is retiring from teaching oral communication at Unity College after 37 years of service. We extend our congratulations and best wishes;  
SLS 658

Sponsored by Senator HERBIG of Waldo.  
Cosponsored by Representative: KINNEY of Knox.

The Joint Order was **READ**.

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

Senator **HERBIG:** Thank you, Mr. President. Women and men of the Senate, it is my privilege to welcome Pat Clark of Unity to the Senate Chamber today. Pat is retiring after teaching at Unity College for 37 years. Pat earned her bachelor's degree in Speech Communications and master's in Theatre from the University of Maine, go Black Bears, before taking a position at Unity College in 1982. In addition to teaching communication and drama classes, Pat served as the faculty sponsor for the Drama Club, coached the Woodsman's Team, and encouraged students to get out into the community and work with local organizations. The college President, Melik Khoury, told me Pat is collegial, respectful, competent, and funny, which I can absolutely agree with. As Melik says, 'she was very serious about her work but did it in a very personal way. Every time I reached out for help, needed to know something, she was a force to be reckoned with in the best possible way.' Over nearly four decades, Pat has served her community, shaped the college, and left a lasting impression on thousands of students. Actually one of them you all know, Jeff McCabe was one of Pat Clark's students. President Khoury told me, 'Pat is a gem. There is nothing that Pat wasn't willing to do to support the mission of the college, the students, and the alums. She helped us as we transformed and became much more a presence in Maine. I see her continuing to be involved. She is really a joy to be around.' I could not agree more with that. On behalf of the Maine Legislature, it is my great honor to present Pat Clark with a Legislative Sentiment. Pat, thank you for your meaningful and enduring impact on students, Waldo County, and the state of Maine. Congratulations.

The Joint Order was **PASSED**.

Sent down for concurrence.

**THE PRESIDENT:** The Chair would like to recognize in the rear of the Chamber Pat Clark of the town of Unity. She's the guest today of the Senator from Waldo, Senator Herbig. Would she please rise and accept the greetings of the Maine Senate.

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**Joint Resolution**

On motion by Senator **FARRIN** of Somerset (Cosponsored by Representative STROM of Pittsfield and Senators: CYRWAY of Kennebec, DAVIS of Piscataquis, DOW of Lincoln, FOLEY of York, MOORE of Washington, ROSEN of Hancock, TIMBERLAKE of Androscoggin, WOODSOME of York), the following Joint Resolution:

S.P. 626

**JOINT RESOLUTION  
COMMEMORATING THE BICENTENNIAL OF PITTSFIELD**

**WHEREAS**, the Town of Pittsfield was originally incorporated as Warsaw, Massachusetts in 1819 and was renamed Pittsfield in 1824 in honor of William Pitts of Boston, a large landowner in the town; and

**WHEREAS**, early settlers made their money as farmers, blacksmiths and sawmill workers; and

**WHEREAS**, Maine Central Institute was established in 1866 by the Reverend Oren B. Cheney and the Reverend Ebenezer Knowlton and continues to serve as the local school for area students as well as boarding students; and

**WHEREAS**, in 1855 a railroad came to town, playing a significant role in the growth of the town; and

**WHEREAS**, in 1869 one of the State's earliest woolen mills was established in Pittsfield, and later woodworking and canning factories were established, providing jobs to local residents; and

**WHEREAS**, in 1895 water service was established through the creation of Pittsfield Water Works, and in 1900 electric power was brought to the region through the formation of the Pittsfield Electric Light and Power Company; and

**WHEREAS**, the Civil Works Administration assisted the town as part of the New Deal by providing \$25,000 to construct an airport that was used by the United States Navy for training from 1943 through the end of World War II; and

**WHEREAS**, during the 1930s Cianbro, a bridge-building firm, opened in Pittsfield and continues to be a well-respected construction company, managing projects as far away as Texas; and

**WHEREAS**, Peltoma Acres, a housing development for workers, was built in 1946; and

**WHEREAS**, Sebasticook Valley Hospital was built on Grove Hill in the 1960s and continues to provide health care services to the community; and

**WHEREAS**, Interstate 95 was constructed in 1964, making Pittsfield a prime location for rest stops between southern and northern Maine, and a motel, restaurant, gas station, shopping center and large park remain in existence today for the use of residents and people passing through; and

**WHEREAS**, Pittsfield is home to the Central Maine Egg Festival, which is celebrating its 47th year; now, therefore, be it **RESOLVED:** That We, the Members of the One Hundred and Twenty-ninth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to commemorate the 200th anniversary of the Town of Pittsfield; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Pittsfield Town Office.

**READ and ADOPTED.**

Sent down for concurrence.

**Unfinished Business**

Senate at Ease.

The Senate was called to order by the President.

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

Off Record Remarks

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

**COMMUNICATIONS**

The Following Communication: S.C. 603

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

June 12, 2019

Honorable Troy Dale Jackson, President of the Senate  
Honorable Sara Gideon, Speaker of the House  
129th Legislature  
State House  
Augusta, Maine 04333

Dear President Jackson and Speaker Gideon:

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

L.D. 334 An Act To Change the Definition of "Renewable Capacity Resource"

This is notification of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence S/Rep. Seth A. Berry  
Senate Chair House Chair

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

**ORDERS OF THE DAY**

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 (6/7/19) matter:

An Act To Create a Credit under the Commercial Forestry Excise Tax for Landowners Using Businesses Based in the United States  
S.P. 80 L.D. 268  
(C "A" S-218)

Tabled - June 7, 2019 by Senator **VITELLI** of Sagadahoc

Pending - **ENACTMENT**

(In Senate, June 6, 2019, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-218).**)

(In House, **PASSED TO BE ENACTED.**)

On motion by Senator **CHIPMAN** of Cumberland, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-218).**

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-218).

On further motion by same Senator, under unanimous consent on behalf of President **JACKSON**, Senate Amendment "A" (S-277) to Committee Amendment "A" (S-218) **READ** and **ADOPTED.**

Committee Amendment "A" (S-218) as Amended by Senate Amendment "A" (S-277) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-218) AS AMENDED BY SENATE AMENDMENT "A" (S-277)** thereto, in **NON-CONCURRENCE.**

Ordered sent down for concurrence.

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



Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later Assigned (6/12/19) matter:

HOUSE REPORTS - from the Committee on **HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Enact Laws Governing Private Vehicle Rentals" H.P. 1167 L.D. 1615

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-540)** (11 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - June 12, 2019 by Senator **H. SANBORN** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In 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" (H-540)**.)

On motion by Senator **H. SANBORN** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

Bill **READ ONCE**.

Committee Amendment "A" (H-540) **READ**.

On motion by Senator **H. SANBORN** of Cumberland, Senate Amendment "B" (S-278) to Committee Amendment "A" (H-540) **READ** and **ADOPTED**.

Committee Amendment "A" (H-540) as Amended by Senate Amendment "B" (S-278) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-540) AS AMENDED BY SENATE AMENDMENT "B" (S-278)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (6/12/19) matter:

An Act Regarding Consent by a Motor Vehicle Operator to a Blood Test

H.P. 567 L.D. 762  
(S "A" S-198 to C "A" H-284)

Tabled - June 12, 2019 by Senator **LIBBY** of Androscoggin

Pending - **ENACTMENT**

(In Senate, June 12, 2019, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-284) AS AMENDED BY SENATE AMENDMENT "A" (S-198)** thereto, in **NON-CONCURRENCE**.)

(In House, **PASSED TO BE ENACTED**.)

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, this bill is a bill that I am very concerned about. As proposed, it is trying to fix a problem that just doesn't exist. According to our Public Safety Commissioner's Office, from Scott Mattox, who is their attorney and he's the one that works with Director Lawrence Stewart very closely, in his testimony he said there's nothing to bring Maine's implied consent law into compliance with. The law having been recently challenged in the Maine Supreme Court as Constitutional and in accordance with current Fourth Amendment jurisprudence of the United States Supreme Court. Not only is the L.D. unnecessary, it is dangerous to Maine's highway safety because it significantly impairs the ability of police officers to investigate and enforce Maine's OUI laws by removing any and all consequences for suspected drunk or drug motorists who refuse a blood or urine test. For these reasons the Department of Public Safety is against L.D. 762. Also, Mr. President, Maine's implied consent law already complies with the relevant decisions of both the United States and the Maine Supreme Courts and, from the legal perspective, L.D. 762 is unnecessary and also, if enacted as written, the amendment significantly impairs Maine's law enforcement ability to investigate and prosecute impaired drivers who require chemical evidence gathered via blood or urine. This results in the removal of the State's ability to impose civil penalties or evidentiary sanctions for refusing a blood or urine test, something that even Birchfield noted was well within a State's public safety authority. In other words, if this bill passes there will be no consequences for a suspected drunk or drugged driver who refuses a blood or urine test. Police officers would not have chemical evidence in cases such as fatal traffic crashes, drug impaired driving cases, cases where the suspected impaired driver is injured or transported to the hospital, and situations where breath testing devices are too far away from the scene of the arrest. Proponents of this bill will likely claim that police officers are within the ability to get chemical tests through other means such warrants and warrant exceptions like consent and extravagant circumstances. However, in reality the State does not currently have the infrastructure allowing officers to obtain warrants rapidly enough so that they can capture the transient evidence of metabolizing drugs and alcohol that may be present in a motorist at the time of the offense, especially in rural areas. Maine's implied consent law is Constitutional and does not need to be brought into compliance with anything. Because L.D. 762 significantly amends the implied consent law in ways dangerous to the roads and highways within the great state of Maine by impairing law enforcement's ability to investigate drunk and drugged driving crimes, we respectfully urge you to carefully consider this concern as you contemplate this bill.

Mr. President, just recently, June 11<sup>th</sup>, we had a driver in a fatal accident on I-295, crashed. Just reading the first paragraph explains why it's important that we have the laws that we currently

do and not add this one to disrupt our state. The man who was driving the car that crashed on I-295 in Falmouth on Friday, killing a passenger, has a history of crashes and driving violations, including convictions for speeding, driving to endanger, and two criminal convictions for drunk driving. I would hope it would not be that passenger would be your spouse, your daughter, your son, or somebody close to you and this to happen. These are serious, serious bills that we're putting out, that's trying to help the person that's actually causing the problem, when we should be looking at the victims and how we can make them safe. That's what we do here. So I am very concerned with this bill and I please ask you to vote against this bill. Thank you, Mr. President.

On motion by Senator **TIMBERLAKE** 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 York, Senator Lawrence.

Senator **LAWRENCE:** Thank you, Mr. President. Men and women of the Senate, I'm very torn about this bill. I've gone back and forth, and I have great respect for the good Senator from Kennebec, Senator Cyrway, and the good Senator from York, Senator Deschambault. I know they have both been involved in law enforcement and have come to different conclusions on the bill. I'm very torn. As a former prosecutor I don't like the bill. As now a defense attorney I like the bill. But as a parent I don't like the bill. I always tell my children the greatest danger for them on the road is not just how they drive, it's how other people drive. That's the greatest danger to them. What this bill does, and I applaud the amendment that was put on here to resolve the evidentiary issue, but it still leaves the problem that it provides an incentive for people to refuse blood tests. In Maine law we have discouragement for people to refusing blood tests. That's an important policy in Maine law and it's not unconstitutional, as the good Senator from Kennebec said, it's not unconstitutional for us to do that. It's not unconstitutional in the U.S. Constitution and, in fact, the Maine Supreme Court has held it up just recently. This bill will disincentivize people from allowing their blood to be drawn, or requiring their blood to be drawn. I get calls down where I live on the border all the time from people from Massachusetts driving up in Maine and saying, 'Oh, I refused and all the defense attorney's down in Massachusetts tell us to refuse.' I said it's not the case in Maine. If you refuse up here there are consequences and there are enhancements of those consequences. Prosecutors can't gather the evidence they can without cooperation of the person giving the blood sample. That's the reality. Blood alcohol dissipates in bloodstreams, I've heard it as high as .02 per hour. If it takes you at 3 o'clock in the morning to have to wake up a judge, you have to draft a search warrant, you have to have it reviewed by the D.A.s office, you have to have it approved, you have to get it over to the judge and get it signed, take the blood sample. If three or four hours lapse, a .15 blood alcohol level can easily go down to a .07 and then you have no prosecution of that person. The reality is then if that person goes out and commits a second offense their refusal to agree to the blood test on the first OUI cannot be considered as an aggravating factor on their second time they'd done this. That's what that bill does. Disincentivizes people from agreeing as a part of their license, that if an officer has probable cause to

believe they are under the influence, that they have to consent to have their blood drawn. I hope you will oppose enactment.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, we've heard two very good reasons why this bill is not a good bill and I respect and concur with my Senate friend from Kennebec, Senator Cyrway. He focused on law enforcement. I would like to just remind us that more important even to that is our highway safety. As you heard, the incentives provided by this bill, if it passed, really unravels one of the key points of our highway safety system. Remember that there's two ways you can lose your license in a situation like this. One through the courts, but also the Secretary of State can simply administratively take the license if you refuse. No court, nothing. They can just do it. So we have to remember that that is currently in play. What we don't want to do is have any of that impaired. We are, as we all know, in an opioid crisis right now. There's a greater chance today than ever before of people to be driving under the influence of drugs, another reason why we really don't want this bill to become law. There's a reason why the Bureau of Highway Safety, the Department of Public Safety, and the Secretary of State have opposed this bill and it's all based on highway safety. So I would ask you to consider that and vote against the motion. Thank you.

**THE PRESIDENT:** The pending question before the Senate is Enactment. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#298)**

**YEAS:** Senators: BELLOWS, BREEN, CHENETTE, CHIPMAN, DESCHAMBAULT, MIRAMANT, SANBORN H, SANBORN L

**NAYS:** Senators: BLACK, CARPENTER, CARSON, CLAXTON, CYRWAY, DAVIS, DIAMOND, DILL, DOW, FARRIN, FOLEY, GRATWICK, GUERIN, HAMPER, HERBIG, KEIM, LAWRENCE, LIBBY, LUCHINI, MILLETT, MOORE, POULIOT, ROSEN, TIMBERLAKE, VITELLI, WOODSOME, PRESIDENT JACKSON

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, **FAILED ENACTMENT**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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Senate at Ease.

The Senate was called to order by the President.

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Off Record Remarks

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

Off Record Remarks

**RECESSED** until the sound of the bell.

After Recess the Senate was called to order by the President.

The Chair laid before the Senate the following Tabled and Later Assigned (6/12/19) matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Authorize a Local Option Sales Tax on Meals and Lodging and Provide Funding To Treat Opioid Use Disorder" H.P. 915 L.D. 1254

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-536)** (7 members)

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

Tabled - June 12, 2019 by Senator **CHIPMAN** of Cumberland

Pending - **ACCEPTANCE OF EITHER REPORT**

(In 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" (H-536).**)

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

On motion by Senator **TIMBERLAKE** 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 Cumberland, Senator Chipman.

Senator **CHIPMAN:** Thank you, Mr. President. Men and women of the Senate, we all know about the issues of property taxes in our districts. We've all heard about it as we've gone door to door, and not just in the last election but over the last several years. In fact, property taxes have risen 27% in the last 8 years across the state on average. This is for a variety of reasons; the cost of repairing roads, renovating municipal buildings, the rising cost of healthcare for municipal employees. There are a number of reasons why that's happened, partly also because of not

adequately funding things here at the State level from revenue sharing, from education funding, and so on. It's been very frustrating for our leaders at the municipal level to only have one source of revenue, one way of generating their own revenue, and that is through the property taxes. So every time money is needed to renovate schools, or whatever it might be, it's going back to that same source of revenue over and over and over again. It's becoming very difficult for residents to afford to stay in their homes. People are selling their homes and having to move to less expensive homes or become renters because of the rising property taxes. So this bill is a very good solution to help our municipalities, provide them with an additional source of revenue. We've heard about this concept before, a local option sales tax. This bill has come very close to passing in the past. It's never quite gotten over the finish line. I think what we've come up with now is a really well ironed out, well balanced proposal that I hope we can get over the finish line and I'd remind members that for the first time ever it actually did pass in the House just the other day. I hope we can pass it here.

So what does this bill do? L.D. 1254 would allow our municipalities the choice, the option, to raise some local revenue by assessing a 1% sales tax on meals and lodging. It would require a local vote of the residents in that municipality. It would require a 20% turnout of the voters in that municipality and if they approved it they would be able to assess a 1% on meals and lodging. This bill would allow the revenue generated, it wouldn't just go back to the city or town where the local option is being assessed, it would be split in a way that helps the entire state. So the revenue would come into the State of Maine, Maine Revenue Services would then divide that by 75% and 25%. So 75% would go back to the generating municipality and 25% would go into the Maine Rural Development Authority. The Maine Rural Development Authority has a budget of about \$2.5 million a year to foster and stimulate economic development in rural Maine, where we know it is much needed. Mr. President, men and women of the Senate, my district's doing great. Our economy is doing awesome. But that's not the case in rural Maine. It's not the case in Piscataquis County. Not the case in Washington County. I grew up in rural Maine. I think when we do tax policy we should do it in a way that is keeping the entire state in mind, to do it in a way that's fair to the entire state. So putting 25% of the revenue into the Maine Rural Development Authority, this would essentially generate millions of dollars for that Authority and it allows their budget to be doubled, allowing them to do twice as much work as what they do right now. So I think that makes a lot of sense. I think that it would also make sense to allow this local option to be just on lodging. If we were to do that we would essentially be collecting revenue, 90% of it would be collected from tourists because 90% of the lodging in the state is paid for by tourists. So it's basically generating revenue from tourism and putting that into our local economies and putting it into rural development. So I think that makes a lot of sense as well. So we have the report in front us. I know it talks about meals and lodging. I hope we can adopt the Committee Report so that we can move on to an amendment that would put all the 1% on lodging only. Thank you, Mr. President.

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

Senator **KEIM**: Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the pending motion for multiple reasons. My concern is for the introduction of a new tax, which the Governor has said she would not entertain any new taxes and the Republican caucus supports this view wholeheartedly. I would additionally like to point out that Maine already has a sizable State lodging tax at 9%, which would increase to 10% with the local option. Also L.D. 609, a bill that would increase the State lodging tax from 9% to 10%, is still alive as a carry over. If this bill and L.D. 609 both pass the lodging tax would increase to 11% in some locations. Only five states have a lodging tax of 10% or greater and we would then place Maine in that category as an outlier. Hospitality based taxes over and above a reasonable level are not welcoming to visitors. At 10% for lodging, including local options, Maine would be in that category. Recently I took a road trip with my daughter to go visit a college in Virginia and on our travels back I put in Google and, you know, lodging and hotels along the way back. Up pops all of the prices. It is very easy for people on the road to compare prices and Comfort Inn or Hampton Inn is the same no matter which state you stay in. So I picked my hotel based on the bottom dollar price. I think anyone in this day and age is going to be doing it. So as an aside, the trip was really successful and she got into Virginia Tech. So my point being that the sort of saving nugget here that this is being considered for is that we would put money in the Maine Rural Development Authority. However, if people are choosing not to stay here because the prices are higher, and in my area people are going to come and stay in Maine and they are going to hike and enjoy the mountains. They can also do that in New Hampshire. New Hampshire has a significantly lower tax rate. So we are not going to be increasing our overall funding for Maine Rural Development Authority, we are very likely going to be decreasing it as we turn people away from our lodging because of the bottom line. Thank you so much.

**THE PRESIDENT**: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended Report. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#299)**

YEAS: Senators: CARPENTER, CARSON, CHENETTE, CHIPMAN, CLAXTON, DESCHAMBAULT, DILL, GRATWICK, LAWRENCE, LIBBY, LUCHINI, SANBORN H, SANBORN L, PRESIDENT JACKSON

NAYS: Senators: BELLOWS, BLACK, BREEN, CYRWAY, DAVIS, DIAMOND, DOW, FARRIN, FOLEY, GUERIN, HAMPER, HERBIG, KEIM, MILLETT, MIRAMANT, MOORE, POULIOT, ROSEN, TIMBERLAKE, VITELLI, WOODSOME

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **CHIPMAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Improve Public Safety through Coordinated Reentry of Prisoners into the Community"  
H.P. 1250 L.D. 1756

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-580)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-580)**.

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

Bill **READ ONCE**.

Committee Amendment "A" (H-580) **READ** and **ADOPTED**, in concurrence.

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

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Provide Equitable Taxation for the Food and Beverage Industry"  
S.P. 194 L.D. 607

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-280)**.

Signed:

Senators:

POULIOT of Kennebec  
SANBORN, H. of Cumberland

Representatives:

BICKFORD of Auburn  
CLOUTIER of Lewiston  
DENK of Kennebunk  
KRYZAK of Acton  
MAREAN of Hollis  
MATLACK of St. George  
STANLEY of Medway  
STEWART of Presque Isle  
TERRY of Gorham

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

Signed:

Senator:

CHIPMAN of Cumberland

Representative:

TIPPING of Orono

Reports **READ**.

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

Bill **READ ONCE**.

Committee Amendment "A" (S-280) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Provide Funds To Continue the Statewide Online Advanced Placement Course Program Provided by the Department of Education in Partnership with the University of Maine at Fort Kent"

S.P. 613 L.D. 1815

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-283)**.

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

Bill **READ ONCE**.

Committee Amendment "A" (S-283) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator CARPENTER for the Committee on **JUDICIARY** on Bill "An Act To Extend the Availability of Protection from Abuse and Protection from Harassment Orders"

S.P. 161 L.D. 496

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

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

Bill **READ ONCE**.

Committee Amendment "A" (S-282) **READ** and **ADOPTED**.

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

Sent down for concurrence.

Senator LUCHINI for the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Assist Small Beer Manufacturers"

S.P. 593 L.D. 1761

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-281)**.

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

Bill **READ ONCE**.

Committee Amendment "A" (S-281) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

Off Record Remarks

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On motion by Senator **LIBBY** of Androscoggin, **ADJOURNED**  
until Friday, June 14, 2019 at 10:00 in the morning.