

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

In Senate Chamber  
Wednesday  
April 2, 2014

Senate called to order by President Justin L. Alfond of Cumberland County.

Prayer by Senator David C. Burns of Washington County.

**SENATOR BURNS:** Good morning, folks. May we bow our hearts and heads in prayer, please. Heavenly Father, I humbly bow before You this morning to ask for Your blessings on this assembly of Senators, staff, and friends. It is a privilege You have granted each of us to be able to serve our state here in some small way. Though we may have many different opinions and ways of carrying out our responsibilities, I pray that each of us desires to serve here honorably in the best of our abilities. Please grant us, each of us, today the wisdom and the commitment to make the correct decisions and help us to treat each other with respect and dignity regardless of the difficulty of the task. As we conduct our business today, Father, I pray that we might do so in a manner that pleases You. I ask these requests in the name of Your son, Christ Jesus. Amen.

Pledge of Allegiance led by Senator Margaret M. Craven of Androscoggin County.

Reading of the Journal of Tuesday, April 1, 2014.

Doctor of the day, Ann Dorney, MD of Norridgewock.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act Regarding Bad Faith Assertions of Patent Infringement"  
S.P. 654 L.D. 1660  
(C "A" S-442)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-442)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-443)** (4 members)

In Senate, March 24, 2014, on motion by Senator **VALENTINO** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-442)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-442)**.

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-443)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-443)**, in **NON-CONCURRENCE**.

On motion by Senator **JACKSON** of Aroostook, the Senate **INSISTED**.

Sent down for concurrence.

**COMMUNICATIONS**

The Following Communication: S.C. 867

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
SPEAKER'S OFFICE**

April 1, 2014

Honorable Darek Grant  
Secretary of the Senate  
#3 State House Station  
Augusta, ME 04333-0003

Dear Secretary Grant:

Pursuant to my authority under House Rule 201.1 (l) (a), I have temporarily appointed Representative Beth Turner of Burlington as a member of the Joint Standing Committee on Veterans and Legal Affairs for the duration of the absence of Representative David Johnson of Eddington.

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

Sincerely,

S/Mark W. Eves  
Speaker of the House

**READ and ORDERED PLACED ON FILE.**

The Following Communication: S.C. 868

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
OFFICE OF THE PRESIDENT**

April 1, 2014

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

Dear Secretary Grant:

Pursuant to my authority under Title 5, MRSA, Chapter 163, §2003, I am pleased to appoint Patrick Cunningham of Hallowell to the Maine Library of Geographic Information Board, representing a statewide association of municipalities.

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

Sincerely,

S/Justin Alfond  
President of the Senate

**READ and ORDERED PLACED ON FILE.**

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**ORDERS**

**Joint Resolution**

On motion by Senator **GERZOFSKY** of Cumberland (Cosponsored by Senators: President ALFOND of Cumberland, BOYLE of Cumberland, BURNS of Washington, CAIN of Penobscot, CLEVELAND of Androscoggin, COLLINS of York, CRAVEN of Androscoggin, CUSHING of Penobscot, DUTREMBLE of York, FLOOD of Kennebec, HAMPER of Oxford, HASKELL of Cumberland, HILL of York, JACKSON of Aroostook, JOHNSON of Lincoln, KATZ of Kennebec, LACHOWICZ of Kennebec, LANGLEY of Hancock, MASON of Androscoggin, MAZUREK of Knox, MILLETT of Cumberland, PATRICK of Oxford, PLUMMER of Cumberland, SAVIELLO of Franklin, SHERMAN of Aroostook, THIBODEAU of Waldo, THOMAS of Somerset, TUTTLE of York, VALENTINO of York, VITELLI of Sagadahoc, WHITTEMORE of Somerset, WOODBURY of Cumberland, YOUNGBLOOD of Penobscot, Representatives: AYOTTE of Caswell, BEAR of the Houlton Band of Maliseet Indians, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BEAVERS of South Berwick, BECK of Waterville, BENNETT of Kennebunk, BERRY of Bowdoinham, BLACK of Wilton, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BROOKS of Winterport, CAMPBELL of Newfield, CAMPBELL of Orrington, CAREY of Lewiston, CASAVANT of Biddeford, CASSIDY of Lubec, CHAPMAN of Brooksville, CHASE of Wells, CHENETTE of Saco, CHIPMAN of Portland, CLARK of Easton, COOPER of Yarmouth, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, DAUGHTRY of Brunswick, DAVIS of Sangerville, DeCHANT of Bath, DEVIN of Newcastle, DICKERSON of Rockland, DILL of Old Town, DION of Portland, DOAK of Columbia Falls, DORNEY of Norridgewock, DUNPHY of Embden, DUPREY of Hampden, ESPLING of New Gloucester, EVANGELOS of Friendship, Speaker EVES of North Berwick,

FARNSWORTH of Portland, FITZPATRICK of Houlton, FOWLE of Vassalboro, FREDETTE of Newport, FREY of Bangor, GIDEON of Freeport, GIFFORD of Lincoln, GILBERT of Jay, GILLWAY of Searsport, GOODE of Bangor, GRAHAM of North Yarmouth, GRANT of Gardiner, GUERIN of Glenburn, HAMANN of South Portland, HARLOW of Portland, HARVELL of Farmington, HAYES of Buckfield, HERBIG of Belfast, HICKMAN of Winthrop, HOBBS of Saco, HUBBELL of Bar Harbor, JACKSON of Oxford, JOHNSON of Eddington, JOHNSON of Greenville, JONES of Freedom, JORGENSEN of Portland, KAENRATH of South Portland, KENT of Woolwich, KESCHL of Belgrade, KINNEY of Limington, KNIGHT of Livermore Falls, KORNFELD of Bangor, KRUGER of Thomaston, KUMIEGA of Deer Isle, KUSIAK of Fairfield, LAJOIE of Lewiston, LIBBY of Waterboro, LIBBY of Lewiston, LOCKMAN of Amherst, LONG of Sherman, LONGSTAFF of Waterville, LUCHINI of Ellsworth, MacDONALD of Old Orchard Beach, MacDONALD of Boothbay, MAKER of Calais, MALABY of Hancock, MAREAN of Hollis, MARKS of Pittston, MASON of Topsham, MASTRACCIO of Sanford, McCABE of Skowhegan, McCLELLAN of Raymond, McELWEE of Caribou, McGOWAN of York, McLEAN of Gorham, MITCHELL of the Penobscot Nation, MONAGHAN-DERRIG of Cape Elizabeth, MOONEN of Portland, MORIARTY of Cumberland, MORRISON of South Portland, NADEAU of Fort Kent, NADEAU of Winslow, NELSON of Falmouth, NEWENDYKE of Litchfield, NOON of Sanford, NUTTING of Oakland, PARRY of Arundel, PEASE of Morrill, PEAHEY HASKELL of Milford, PEOPLES of Westbrook, PETERSON of Rumford, PLANTE of Berwick, POULIOT of Augusta, POWERS of Naples, PRIEST of Brunswick, PRINGLE of Windham, RANKIN of Hiram, REED of Carmel, ROCHELO of Biddeford, ROTUNDO of Lewiston, RUSSELL of Portland, RYKERSON of Kittery, SANBORN of Gorham, SANDERSON of Chelsea, SAUCIER of Presque Isle, SAXTON of Harpswell, SCHNECK of Bangor, SHAW of Standish, SHORT of Pittsfield, SIROCKI of Scarborough, SOCTOMAH of the Passamaquoddy Tribe, STANLEY of Medway, STUCKEY of Portland, THERIAULT of Madawaska, TIMBERLAKE of Turner, TIPPING-SPITZ of Orono, TREAT of Hallowell, TURNER of Burlington, TYLER of Windham, VEROW of Brewer, VILLA of Harrison, VOLK of Scarborough, WALLACE of Dexter, WEAVER of York, WELSH of Rockport, WERTS of Auburn, WILLETTE of Mapleton, WILSON of Augusta, WINCHENBACH of Waldoboro, WINSOR of Norway, WOOD of Sabattus), the following Joint Resolution:

S.P. 751

**JOINT RESOLUTION  
RECOGNIZING NATIONAL PUBLIC SAFETY  
TELECOMMUNICATOR WEEK**

WHEREAS, the United States Congress has declared the week beginning April 13, 2014 as National Public Safety Telecommunicator Week; and

WHEREAS, over 500,000 dedicated men and women are engaged in the operation of emergency response systems for federal, state, county and local governmental entities throughout the United States; and

WHEREAS, these unseen first responders answer the calls of the general public for police, fire and emergency medical assistance and dispatch such assistance to help save the lives and property of our citizens; and

WHEREAS, Americans place their trust in these individuals, not just this week, but every day of the year, and rely on their knowledge and professionalism as they make critical decisions, obtain information and quickly dispatch needed aid; and

WHEREAS, the calls include not only police, fire and emergency medical service calls but those governmental communications related to natural disasters, forestry and conservation operations, highway safety and maintenance activities and all other operations that modern governmental agencies must conduct; and

WHEREAS, Maine's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-sixth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize the week of April 13, 2014 as National Public Safety Telecommunicator Week and we urge citizens to observe this week with appropriate programs, ceremonies, activities and appreciation of these outstanding individuals.

**READ and ADOPTED.**

Sent down for concurrence.

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**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish a Single-payor Health Care System To Be Effective in 2017"

H.P. 962 L.D. 1345

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-771).**

Signed:

Senators:

GRATWICK of Penobscot  
WOODBURY of Cumberland

Representatives:

TREAT of Hallowell  
BEAUDOIN of Biddeford  
BECK of Waterville  
COOPER of Yarmouth  
DOAK of Columbia Falls  
MORRISON of South Portland

PRINGLE of Windham

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

Signed:

Senator:

WHITTEMORE of Somerset

Representatives:

FITZPATRICK of Houlton  
McCLELLAN of Raymond  
WALLACE of Dexter

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-771).**

Reports **READ.**

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

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

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

Senator **GRATWICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in support of the Resolve, which is Committee Amendment A to L.D. 1345. I presented this at the caucus yesterday for our Democratic caucus here. I offered to speak six hours on this particular topic. I'd be happy to do this. I was encouraged to speak for five minutes. Indeed, I decided to speak for five minutes. To your surprise, I'm going to speak for five minutes only on this as well to the virtues of this report. This Resolve asks that we have a consultant committee directed at how we get out of the current healthcare quagmire. It will give us a report back to the Legislature by a year and a half hence. Every morning Mainers get up, they go to work, they have a job, they take care of their families, and they expect a living wage and they expect financial security and they expect healthcare. For the last 30 years I think they have worked harder and harder and are getting less close to these goals. Healthcare is a major issue. This bill, this Resolve, tackles this healthcare problem head on. It gives people what they need and what we all want at this time. It gives the choice of how to do this correctly. It's no secret that our healthcare system here in the United States is broken. It's not serving us well. We have healthcare problems for many of us and it certainly is an economic burden in our country. I think people are fully aware that we spend nearly one-sixth of our gross national product, 18%, dedicated to healthcare issues and for this we come in someplace between 13<sup>th</sup> and 37<sup>th</sup> out of a number of healthcare measures, measures having to do with longevity, with preventable illnesses, with preventable use of medicines, overdoses, etcetera. In other words, we are not doing very well. We spend 18% of our GNP and we're not number one. The

country that is number one, France, on many of these measures spends 11%, 10.5% of their GNP. The uncomfortable truth here is that we are not doing very well with our healthcare system. Others do it much better. It is particularly galling that it be France perhaps, but other people do healthcare for their citizen much better than we. This particular bill has been around now, I think, for 14 years, since the year 2000. This bill is going to require that we have a consultant working with the committee here which will ask the proper questions and make recommendations to come back here a year hence. This is not giving a particular roadmap. This is perhaps suggesting that healthcare be under a government administered program. That's one possibility. The other possibility is that it be contracted to a private insurance company, a private entity. The other possibility is that it be private and public or other. In other words, this is an open study and basically based on a Mathematica study. Mathematica is a corporation from Massachusetts. It studied this in 2003. Came up with a very good report, trying to bring this up to date. We are trying to get the very best data we can so we can go forward in an intelligent, appropriate way. This is going to be a roadmap. It's going to come back here to this group and we're going to take advantage, hopefully, of what's been done in other states. In Vermont they're working on this and the major problems that they have there. I think we don't need to go through those pitfalls. We can have a particular Maine solution to this project. The funding is going to come from part of the SIM Grant, the \$33 million that was given to the DHHS. This is going to be paid back from other private sources. The funding is actually going to work out quite well.

It is a somewhat unusual pattern, I would like to tell about why you should not vote for this bill and then I will tell you why I think it's appropriate how we do vote for this bill. Probably the major reason you should not vote for this bill is the fact that the government does nothing right. We hear that all the time. Government does nothing right. I'll simply note, however, that Medicare, which has now been around since 1965, actually does do it quite right. Not perfectly right, but quite right. Medicare cares for our very difficult portion of the population, older people. It's overhead is 3% or 4% for Medicare whereas private insurance companies are anywhere from 15% to 25% overhead. Medicare, a government program, actually does it quite right. The second reason you shouldn't vote for this is that it's too expensive. My answer to that is that our current system is much too expensive. When you talk to business leaders, they say it's the major thing that's killing them, healthcare expenses. Our economy needs this. Our economy could do remarkably well once we get that 18% of our GNP down to a more manageable 11%. The third thing is this bill may hurt business. My opinion is yes, it probably will hurt business as usual. On the other hand, businesses evolve. They adapt. There is no question that healthy people are wealthier than sick people and wealthy people spend money. Wealthy people help business. We have evolved in many different ways throughout history. We no longer have blacksmiths and farriers, but we have other kinds of automobile mechanics. This is just going to be another way to evolve. The fourth reason I have down here that you shouldn't vote for this is that it is un-American and it's Socialist. Those are always very profound. Having anything orchestrated by the government is a concern. I'll simply note that in the United States the people who have the most socialized, the most centralized, healthcare system are three groups: the one being our Congressional representatives. They have truly socialized medicine, which is to say if you go to

Congress as a Senator or a Congressman you have remarkably good healthcare. You have no deductibles. You get whatever you need. It works very well. The other group is the VA. The third group is the federal prisoners. In other words, we have many different models of healthcare here in the United States and this is not at all unusual or unique in our country. The fifth thing is if we don't do it here, the federal government will do it. It's the federal government's responsibility. That was brought up the other day in the other Body. This is curious because it implies the inevitability to this. My response to that is that I'd much prefer to do it locally. I think that Maine can do a better job with this. I'd prefer not to start off with the federal government.

The final thing I have on this list, although I have another 26 others that I will spare you of, is that we shouldn't trust the government. The government's too complex. My perspective on that, being in the frontlines of medicine, is that I find that Medicare is ever so much easier to deal with than private insurance companies when you are actually seeing patients, caring for patients. Medicare doesn't always pay me as much as I might like, but I infinitely, I would emphasize infinitely, prefer to deal with patients on Medicare than I would prefer to deal with them on private insurance. The questions, the reservations, that government doesn't do anything right, the government does many things right, particularly Medicare. It's too expensive. I think that the expense is going to be much more in our favor for the regular people. It's going to hurt business. I think quite the contrary. It's un-American. Again, we have this pattern with our leaders. The feds will do it. I'd much prefer to have it come here.

The real challenge then, to recap this, is to control our healthcare costs, to give good quality which help both our personal health and economic development. This is a study. It's going to deal with it proactively. It's going to allow us to explore our options intelligently and for us not to just be reactive. I do not know how this study is going to turn out. I suspect we're going to come up with the uniquely American, uniquely Maine, solution to it. We're not going to end up like Canada. We're not going to end up like Germany, or France, or Taiwan or other models that there are out there. I think we're going to come up with a Maine solution. I look forward to this. I think this is probably going to be the most exciting, stimulating, troublesome, worrisome, contentious bill we can possibly come up with, but some Legislature is eventually going to get credit for the courage to take this problem on and I wish it could be ours. Thank you, Mr. President.

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

Senator **WOODBURY:** Thank you Mr. President. Senate colleagues, the Affordable Care Act did many things to reform our healthcare system and I understand that there is a fair degree of disagreement in the Chamber about whether all of those changes were positive. Some were positive and some were negative and so forth. What's clear, however, is that the system is still filled with enormous complexity. Different plan provisions with many different categories of people with many different provisions of coverage. As a result, large both direct administrative costs and indirect costs of us having to figure out this system, fighting to get things covered that we're not sure whether they are covered or not, and providers fighting to get paid for things that may or may not be covered. It's a system that just has tremendous complexity. More than anything else, this bill is designed to look

at whether there is a way to create a simpler and more fully integrated system. I've been a long time believer that a universal single integrated system made sense nationally. I've been much more skeptical that this was possible to achieve as one single small state, and particularly a low income small state like ours. However, given the continuing issues that exist in the health insurance marketplace, given the fact that we're coming much closer, nationally, to a system that is indeed universal, I see no reason why we shouldn't look carefully at whether, in fact, we can implement something as a single state. I think this needs serious exploration and I think this bill is a very effective way to do it. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, this bill is very interesting. I've stated I've been up here for a while. I've voted for single payor every time it's come in front of me. I've sponsored it. Co-sponsored it. Supported Dirigo. Support Obamacare. I supported the other way that we can get to single payor. This bill, to me, is setting out to study it, to make sure that we can do it, and report back by 2017. I remember back in the 121<sup>st</sup> Legislature, around 2002, and we passed single payor. We had the Governor sign single payor. We weren't able to fund single payor. We've been trying to get something done ever since. I believe, Mr. President, that single payor is going to come to this country and it's going to come to it through the states. The federal government is going to look to the states to be the incubators. They are going to look at the states like Maine to come up with the different solutions that it's going to take to truly give this country, give this state, give the people of this country that need health insurance, good quality care, affordable health insurance. I believe that this bill is asking the state to do just that, to study it, see what it's going to take, figure out how we're going to fund it, figure out how we're going to make it affordable, similar to what they did in Canada many, many years ago. The federal government in Canada didn't just all of a sudden say there was going to be health insurance. The different parts of Canada said it. Saskatchewan said they were going to have health insurance, single payor. The doctors all said they weren't going to administer it. They weren't going to take care of those patients. Well, the government said, "That's fine, we'll bring in another group of doctors and we will." As we know, Canada has single payor. As we know, most of the industrial world has single payor, Mr. President. It's darned time that we do. We've tried it here in Maine and I'd like to say that part of Obamacare came out of Dirigo, a system that we tried here and it was very difficult because of our single payor process went through the insurance industry. They didn't like us competing with their policies, Mr. President, so we had a difficult time. We're now going down another road. This bill, though, is asking the Legislature to study it, to come back in 2017 with a plan on how to fund affordable health care, how to get Mainers that insurance that they need. I serve on the board of a hospital. We're going to take care of people that can't afford it. We're going to take care of those people that come in to us broken and ill and sick, but it shouldn't always be through the emergency room. It should be through, as I've said here many times, the doctor's office. We should be doing this smart and that's what this bill is asking us to do. Mr. President, I urge everybody to please support this bill and to please get the people of Maine what they truly, truly desire and

need, single payor health insurance. Thank you very much for the time.

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

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**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Gratwick to Accept the Majority Ought to Pass as Amended Report, in 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 (#520)

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFSKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

**NAYS:** Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE

**EXCUSED:** Senator: YOUNGBLOOD

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **GRATWICK** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

#### READ ONCE.

Committee Amendment "A" (H-771) **READ** and **ADOPTED**, in concurrence.

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

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#### Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Improve Maine's Tax Laws"

H.P. 792 L.D. 1120

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-749)**.

Signed:

Senators:

HASKELL of Cumberland  
MILLETT of Cumberland

Representatives:

GOODE of Bangor  
BROOKS of Winterport  
LIBBY of Lewiston  
MOONEN of Portland  
STANLEY of Medway  
TIPPING-SPITZ of Orono

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

Signed:

Senator:

THOMAS of Somerset

Representatives:

BENNETT of Kennebunk  
JACKSON of Oxford  
KNIGHT of Livermore Falls  
MAREAN of Hollis

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-749)**.

Reports **READ**.

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

On motion by Senator **KATZ** of Kennebec, 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 Somerset, Senator Thomas.

Senator **THOMAS:** Thank your Mr. President. Ladies and gentlemen of the Senate, my counterpart in the House spoke for 25 minutes on this bill yesterday. I won't make people suffer like that. I believe, and as far as I'm concerned, we live in the best place on earth to raise a family. Maine is the best place there is in the country to live and the best place there is to raise a family. I've lived in other parts of the country and traveled to most of it. Do you ever wonder why, with such a quality of life, that it's so hard to employ people? Do you ever wonder why so many businesses leave Maine and so few come when it's such a great place to live? I will argue that it's bills like this. This bill will establish a blacklist. Countries will be considered tax havens. Some of these countries are friends of ours. If we want to slap them in the face, why would they come here? Why would they create jobs? Companies that are accused of avoiding paying taxes, there is one way to avoid paying taxes; don't do any

business here. If you're not in Maine then you won't have to worry about it. I think this just adds one more layer. It's one more reason why people won't come to Maine. It's one more reason why we won't have enough jobs to go around and I hope you would reject the pending motion. Thank you.

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

Senator **HASKELL:** Thank you very much Mr. President. Men and women of the Senate, I would hope that we would be able to pass this bill. I think it's time that we stopped allowing some of these big corporations to use a 21<sup>st</sup> Century tax dodging opportunity and not provide back to the state of Maine taxes that are due to it. The idea of this off-shore, I won't say hiding, transfer of money happens because if you take your profits from a company, and I'm going to talk about a specific company here, for instance if they have a sales person that is said to be working for a corporate affiliate, if we pick one of these, we'll say the Cayman Islands, even though they are working and selling products in Maine, whatever income from that sale that ends up in the off-shore tax haven is not subject to U.S. tax until it is transferred back to the U.S. affiliate. That's that deferral of U.S. taxes. Yes, they have to pay them. They don't have to pay them until they bring that money back on-shore. That deferral of off-shore, I will give you an example: Toys R Us pays a license fee to the off-shore tax haven because it had the rights to the brand for Toys R Us. That salesperson was using it in Maine. Hopefully there are some examples in here of the information that you've received about big corporations. We're not talking about Maine businesses here whose practices have given them the opportunity to take what ought to be paid for taxes here in the state of Maine. Maine is a Combined Reporting State. Combined Reporting State is a technique developed to deal with tax sheltering in many U.S. states today. If we want to talk about whether or not we're going to make friends, remember we do this with 49 other states. There is a requirement. Very simple, Maine asks corporations to total their income, determine what percentage of that income comes from sales in Maine. If it's 1% of \$1 million corporate income that came from sales in Maine, then the corporation has to pay tax on \$10,000 worth of corporate income. All L.D. 1120 does is makes sure that corporate income that is held in off-shore tax havens is included in the total income that's being apportioned. Simply put, it extends what is currently the well-known and well-used technique of combining reporting used to prevent interstate tax sheltering in order to prevent off-shore tax sheltering. I think it's important to recognize that this is truly a fairness issue, that multi-national corporations, which are getting a lot of play in Congress right now if you have read any of the articles or seen any of the recent news, are being taken to task for hiding their income in these off-shore tax havens. This just creates a level playing field. Small businesses in Maine that don't use these tricks are at a competitive disadvantage with these companies who are able to off-shore their profits. We lose somewhere around, and I guess I'll look at the fiscal note which after the cost that will be incurred by Maine Revenue Services and looks to bring into the state of Maine somewhere close to \$5 million a year. Even if that's exaggerated, which I find it hard to believe Maine Revenue Services would exaggerate it, by half, that's a lot of money that we're missing out on being able to bring here into the state of Maine. This combined reporting that's used in L.D. 1120 is no different than how Maine prevents tax evasion

within all of the other 50 states. I say that we shouldn't let corporations hide their money in Delaware or Nevada or any other low tax state. Why should we let them hide them in the Cayman Islands? I urge your affirmative vote on this bill. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise this morning in support of this motion. The last couple of sessions I think I quoted from the book Take the Rich off Welfare. The book talks about the welfare problem in America being two-thirds corporate America. It talks about things that average Americans don't have. Loopholes, tax breaks, off-shore tax havens. To me, this would be a good start at trying to take care of some of the problems with the welfare for the rich. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Haskell to Accept the Majority Ought to Pass as Amended Report, in 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 (#521)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, VITELLI, THE PRESIDENT - JUSTIN L. ALFOND

**NAYS:** Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY

**EXCUSED:** Senator: YOUNGBLOOD

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

**READ ONCE.**

Committee Amendment "A" (H-749) **READ** and **ADOPTED**, in concurrence.

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

Seven members of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Ensure That Large Public Utility Reorganizations Advance the Economic Development and Information Access Goals of the State"

H.P. 1263 L.D. 1761

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-772)**.

Signed:

Senators:

CLEVELAND of Androscoggin  
JACKSON of Aroostook

Representatives:

HOBBINS of Saco  
GIDEON of Freeport  
RUSSELL of Portland  
RYKERSON of Kittery  
TIPPING-SPITZ of Orono

Five members of the same Committee on the same subject reported in Report "B" that the same **Ought Not to Pass**.

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

DUNPHY of Embden  
HARVELL of Farmington  
LIBBY of Waterboro  
NEWENDYKE of Litchfield

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-773)**.

Signed:

Representative:

BEAVERS of South Berwick

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**.

Reports **READ**.

Senator **CLEVELAND** of Androscoggin moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-772)**, in concurrence.

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**Divided Report**

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**Senate**

**Ought to Pass As Amended**

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Report Defining Cost Responsibility for Deaf and Hard-of-hearing Students Receiving Services from the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf"

S.P. 703 L.D. 1769

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-479)**.

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

**READ ONCE**.

Committee Amendment "A" (S-479) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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Senator CLEVELAND for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Provide Model Language for Standard Sewer District Charters"

S.P. 579 L.D. 1532

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-481)**.

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

**READ ONCE**.

Committee Amendment "A" (S-481) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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Senator CLEVELAND for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Assist Electric Utility Ratepayers"

S.P. 731 L.D. 1825

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-482)**.

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

**READ ONCE**.

Committee Amendment "A" (S-482) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Expand Affordable Heating Investments with Maine's Public Resources" (EMERGENCY)

S.P. 741 L.D. 1838

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

Signed:

Senators:

VITELLI of Sagadahoc  
BOYLE of Cumberland

Representatives:

DILL of Old Town  
BLACK of Wilton  
HICKMAN of Winthrop  
JONES of Freedom  
KENT of Woolwich  
MAREAN of Hollis  
SAUCIER of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-480)**.

Signed:

Senator:

SHERMAN of Aroostook

Representatives:

CRAY of Palmyra  
TIMBERLAKE of Turner

Reports **READ**.

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

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**Divided Report**

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Delay Implementation of the Maine Metallic Mineral Mining Act and Related Statutory Provisions" (EMERGENCY)

S.P. 750 L.D. 1851



Reported that the same **Ought to Pass**, pursuant to Joint Order 2014, S.P. 742.

Signed:

Senators:

BOYLE of Cumberland  
GRATWICK of Penobscot

Representatives:

WELSH of Rockport  
CHIPMAN of Portland  
COOPER of Yarmouth  
GRANT of Gardiner  
HARLOW of Portland  
McGOWAN of York

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**, pursuant to Joint Order 2014, S.P. 742.

Signed:

Senator:

SAVIELLO of Franklin

Representatives:

AYOTTE of Caswell  
CAMPBELL of Orrington  
LONG of Sherman  
REED of Carmel

Reports **READ**.

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

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

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Hold an Advisory Referendum on Tax Reform" (EMERGENCY) S.P. 726 L.D. 1813

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

Signed:

Senators:

HASKELL of Cumberland  
MILLETT of Cumberland

Representatives:

GOODE of Bangor  
BROOKS of Winterport

LIBBY of Lewiston  
MOONEN of Portland  
STANLEY of Medway  
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 "A" (S-478)**.

Signed:

Senator:

THOMAS of Somerset

Representatives:

BENNETT of Kennebunk  
JACKSON of Oxford  
KNIGHT of Livermore Falls  
MAREAN of Hollis

Reports **READ**.

Senator **HASKELL** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **KATZ** of Kennebec, 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 Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is just a very simple up or down referendum. No complicated formulas. No if this, then that. Nothing to interpret to make voters distrustful. It's just a simple up or down vote. I think it's a great way to connect government to the people we serve. It's our job to represent people and to vote on issues for people in our district. That's a wide variety of issues. We have to make assumptions based on what people told us when we asked for their vote and what they told us at the ballot box. I'm convinced we don't always get it right. On this important issue, with all the debate that we have under the dome, I think it's time we asked the voters very simply, "Would you like lower taxes in exchange for lower spending?" We all may be surprised at the results. Let's allow the people of Maine to speak on what many voters think is the most important issue that we face. Thank you.

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

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, this was certainly an interesting bill to have a public hearing on and there were not any proponents of this bill. I know it's late in the session so often there isn't a big crowd that shows up, but we did have the bill presented and the representative of the Executive was there to discuss the bill. My good colleague has suggested that this is a simple advisory referendum. I think if folks would actually take a look at the bill, it's not as simple as it sounds. This bill does, indeed, ask people if they want a referendum. The referendum would ask people if

they wanted to lower income tax rates, but the second part of this law, should it pass, says that if the voters approve the advisory referendum question the Governor is required to direct the Commissioner of Administrative and Financial Services to include in a biennial budget for the years 2015 - 2016 and 2016 - 2017 to be submitted to the First Regular Session of the 127<sup>th</sup> Legislature proposals to lower the income tax rates, implement alternative taxes, and reduce the overall tax revenues and government spending by at least \$100 million. That's not advisory. That's prescriptive. We're requiring that to happen in this law. I think the best way that voters can let us know whether or not we're appropriately spending their money is at the ballot box when each one of us stands there shaking hands on that cold November morning. I think this is not the right type of policy to set forward with no guidelines at all, other than those that I just read to you about what we would do with a \$100 million tax cut here in the state of Maine. Not only that, but to require the next Governor, whoever that might be, to provide a budget which has that \$100 million out of it. This is bad policy. Its momentum is not based on good public policy and I urge you to join me in the Ought Not to Pass motion.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Haskell to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#522)**

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, FLOOD, GERZOFISKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE

EXCUSED: Senator: YOUNGBLOOD

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HASKELL** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

**SECOND READERS**

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

**Senate**

Bill "An Act To Implement the National Popular Vote for President"

S.P. 201 L.D. 511

**READ A SECOND TIME.**

On motion by Senator **KATZ** of Kennebec, 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 (#523)**

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GRATWICK, HASKELL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, GERZOFISKY, HAMPER, HILL, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, VALENTINO, WHITTEMORE

EXCUSED: Senator: YOUNGBLOOD

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being excused, **FAILED PASSAGE TO BE ENGROSSED.**

Sent down for concurrence.

**ENACTORS**

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

**Emergency Measure**

An Act To Provide for a Quorum at the Public Utilities Commission

H.P. 1191 L.D. 1619  
(S "A" S-461 to C "A" H-645)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 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.

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**Emergency Resolve**

Resolve, To Create the Task Force To End Student Hunger in Maine

S.P. 729 L.D. 1819  
(C "A" S-454)

On motion by Senator **JACKSON** of Aroostook, **TABLED** until Later in Today's Session, pending **FINAL PASSAGE**, in concurrence.

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**Act**

An Act Regarding the Issuance of a Permit To Carry a Concealed Handgun

H.P. 183 L.D. 222  
(H "A" H-739 to C "A" H-730)

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

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**Resolves**

Resolve, To Require New Contracts for MaineCare Nonemergency Transportation

S.P. 658 L.D. 1663  
(H "A" H-754 to C "A" S-441)

**FINALLY PASSED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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Resolve, To Improve Degree and Career Attainment for Former Foster Children

H.P. 1206 L.D. 1683  
(C "A" H-753)

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

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Senate at Ease.

Senate called to order by the President.

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**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 (3/21/14) matter:

SENATE REPORTS -from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Standardize and Simplify the Process for Employers To Provide a Drug-free Workplace"  
S.P. 664 L.D. 1669

Report "**A**" - **Ought to Pass as Amended by Committee Amendment "A" (S-440)** (6 members)

Report "**B**" - **Ought Not to Pass** (6 members)

Tabled - March 21, 2014, by Senator **PATRICK** of Oxford

Pending - motion by same Senator to **ACCEPT** Report "**B**", **OUGHT NOT TO PASS**

(In Senate, March 21, 2014, Reports **READ**.)

Senator **PATRICK** of Oxford requested and received leave of the Senate to withdraw his motion to **ACCEPT** Report "**B**", **OUGHT NOT TO PASS**.

On motion by same Senator, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-440)** **ACCEPTED**.

**READ ONCE**.

Committee Amendment "**A**" (S-440) **READ**.

On motion by Senator **HASKELL** of Cumberland, Senate Amendment "**B**" (S-485) to Committee Amendment "**A**" (S-440) **READ**.

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

Senator **HASKELL:** Thank you very much Mr. President. Colleagues in the Senate, I was very interested in the bill when it came forward simply by reading its title. I think it's an important matter and one that needs to be taken into consideration. I did, however, when I saw the Ought to Pass, or the Minority Report of the committee, realize that process was backwards. That was a process that talked about the rules and getting the rules in place and then sending the rules back to the policymaking body. That, to me, if we're going to put a policy in place regarding drug-free workplaces, should come from the policymakers and then go to rulemaking. That's what I'm doing here. I'm simply asking for,

and if you look you'll see many of the same people who were on the list of people who ought to be working on what the policy should look like, would form the task force. They would bring back to the committee the process and the policy around how you were going to implement drug-free workplaces in the state of Maine and then it could go to rulemaking once the policy has been established by the Legislature. I believe we are the policymaking committee. If there were simply rules that were needed, the departments have certain authorities to create rules. That certainly could have been done, but I think the first thing that's needed here is a policy and so I am supportive of us moving forward with this and I think we ought to move forward with the steps in the right order. Let's get our policy in place with the policy committees of the Legislature and then build the rules that will implement those policies, therefore, I would encourage your support of Senate Amendment B. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in support of the proposed amendment. I appreciate the good Senator from Portland taking into consideration the aspects of this. I, personally, had many inquiries regarding the posture of this bill. As it became clear, as we went forward, many small employers here in Maine are struggling with how to properly address safety concerns in the workplace. I think it would have been appropriate perhaps to call this the safe workplace bill at one point.

I do have a question for the President, though. Could you verify, or could someone verify, for me what report is before us? I believe it was a 6 - 6 report. I don't believe it was a minority report.

**THE PRESIDENT:** The Senator from Penobscot, Senator Cushing poses a question through the Chair to anyone who may wish to answer.

The report that is in front of us right now is Report A. Report A is, right now which is front of us, a Senate Amendment B. What we would be adopting, or accepting, is Senate Amendment B on Report A.

The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you Mr. President. I believe it was a 6 - 6 report from the committee. Could we just verify that? There was not a minority report.

At the request of Senator **CUSHING** of Penobscot, Reports **READ.**

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I apologize to the good Senator Cushing. It was my mistake, standing up, not reading exactly what I had on my piece of paper. It was a 6 - 6 report. There was one member that was unable to make it in time, within the time structure, to vote. I also want to thank the Senator from Portland and all those that had input at making this amendment worthwhile so that I believe that we should be able to

get a good vote and hopefully it'll just go under the hammer because I think everyone worked together towards trying to do something and putting the cart behind the horse, the right thing to do.

On motion by Senator **HASKELL** of Cumberland, Senate Amendment "B" (S-485) to Committee Amendment "A" (S-440) **ADOPTED.**

Committee Amendment "A" (S-440) as Amended by Senate Amendment "B" (S-485) thereto, **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-440) AS AMENDED BY SENATE AMENDMENT "B" (S-485)** thereto.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (4/1/14) matter:

HOUSE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

H.P. 1270 L.D. 1772

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-769)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-770)** (5 members)

Tabled - April 1, 2014, by Senator **BOYLE** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)** Report, in concurrence

(In House, March 31, 2014, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769).**)

(In Senate, April 1, 2014, Reports **READ.**)

On motion by Senator **BOYLE** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-769)** Report **ACCEPTED**, in concurrence

**READ ONCE.**

Committee Amendment "A" (H-769) **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 (4/1/14) matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Enact the Maine Small Business Investment Protection Act"

H.P. 1043 L.D. 1458

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-669)** (7 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "B" (H-670)** (5 members)

Report "C" - **Ought Not to Pass** (1 member)

Tabled - April 1, 2014, by Senator **PATRICK** of Oxford

Pending - motion by same Senator to **ACCEPT** Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-670)**, in concurrence

(In House, March 31, 2014, Report "B", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-670)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-670)**.)

(In Senate, April 1, 2014, Reports **READ**.)

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

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I rise in support this morning of Report B, which is similar to Report A but it implements what we're looking to do. Report B is actually looking to do something similar to what the Body just did a week or so ago, which is to help franchisees in relationship to franchisors. I heard the discussion the other day on the other bills, and I will say this may not be apples to apples but it is darn close. We're looking at doing something for franchisees like McDonald's, Burger King, Wendy's, Dunkin Donuts. We're looking to put in statute things that talk about reasonableness and good faith: cancellation, termination, renewal, non-renewal unless for good cause, transfer, survivorship. L.D. 1458 allows Maine franchise owners to transfer their businesses and allows franchise owners to obtain the value of the franchise while not forcing the franchisor to compromise its standards. What are we talking about, ladies and gentlemen, in business here in America? You have your multi-billion dollar corporations; some instances may be Ford or Chevy. It might be McDonald's. It might be Wendy's.

The corporate headquarters, those that have the say over small businesses, take a look at it. "Well, why do we want to get involved with a business-to-business contract?" I kind of said that on the other bill; why do we want to get involved with Chevy or Chevy's dealerships, Ford or Ford's dealerships? Why do we want to do that? Why are we proposing to do that? Well, what we have here, and what we have in corporate America, is the ability for the big guy to have complete say on the little guy.

Testimony in the Committee talked about 10 or 15 years ago the contract was eight pages long. Pretty simplistic. Eight pages long, you knew what you was getting. You knew what the standards were. Nowadays it could be 35 to 500 pages. We had the ability in caucus to have both sides come, and I was amazed at the opposition side coming and explaining with two books. What we have now, with employers who want to buy a franchise, they would actually probably have to spend more money on a lawyer to try to figure out what their rights and obligations are. I don't doubt that you should have rules and regulations and stuff; but should those be so onerous? We heard facts about, "Well, you've got to make sure the product is the same." This bill doesn't affect the quality of the product, the quality of the brand. What does this have to do with a lot of things? Well, this has to do with that Maine small business man, and I will say one of the negatives that people brought up was that this may be, in fact, for a guy who might own 80 franchises. I would say that was an American business dream for someone, to take his first franchise and build it into two, into five, into ten, into 30. That's a good thing. That's what business is all about.

That wasn't what the most testimony was about in this. The testimony in this was: what about that franchisee in your neighborhood that only owns one, two, or three? Those franchisees who own the Dunkin Donuts or McDonald's or Wendy's that put money, tax money, into Maine. Do corporations in Maine put any tax money in? I would say the only money that the corporations that we're talking about, the franchisors, put in the state of Maine is the thousands of dollars that they spend on sending people from Washington D.C. to lobby this bill. Our local franchisees, who put money into charity, into taxes, into our local economies, that hire our local citizens and puts them to work. I know, Mr. President, that I hope someday that in Rumford I am able to build a bowling alley that maybe a franchise to what you have. I know, Mr. President, that you, being a fair man, would understand that reasonableness and good faith, cancellation and termination for good cause are all good things that every business thinks should be a decent right here in the state of Maine. My son, I think, works at a Wendy's in Old Town. I told my son that's not the way to go. I told my son, "You've got to go for management or you've got to own one." The trouble is owning them, with the restrictions that are put upon our local franchisees by corporations in America, go far beyond what I call a norm. They say, "Wow, this is great. You have to have every rigid standard," but if you say to a businessman you've got a dollar menu and you've got to sell that McDouble for \$1 and it costs you 88¢ or 95¢ and you're going to sell it at a loss and hoping that, when you sell that Whopper or whatever the higher brands are, your value meals, you will make up money. Not every franchisee business model in every area can make money doing that. In some areas in rural Maine that aren't open until midnight and that they have a clientele that may not have the ability to buy a \$8 or \$9 value meal, are we going to say to them that they have to abide by that and marginally get by or do we want to allow them to at least have a little say and be able to sell something for at

least cost? A grocery store has many loss leaders, but they also have 40,000 and something products to sell. That isn't about this. This is about fairness. I know they are going to say: "My God, we're going to get up here and we're going to be dealing. Why are we going to be dealing with a business-to-business contract?" I say the same thing, because of the same reason we did with automobile manufacturers and dealerships. Because if big brother or big business has their thumb on that little business, constricting them even though every franchise is good because they sell a bonafide product, but if they can't sell it and have that little bit of extra to be able to have that wiggle room. I've gone all over the state and I'm surprised that here in Augusta, Maine a lot of the franchises that I hear, if you go by at 8:30 or 9:00 at night, if you see three or four people drive through in an hour, what sense is that to make sure that they have to stay open until 10:00 or midnight? They are paying the people. They are paying the bills. They are paying all this stuff. Well, this is about fairness, ladies and gentlemen, and I would hope that we would, all 35 of us, stand together. Even though I spoke on both ends of the issue, and I will admit that because there was issues that I had to deal with with this. I'll probably get up and speak a second or third time. I'll make sure that I get the whole issue out. All 35 of us saw the wisdom to monkey with a business-to-business decision. In a lot of respects, they had a lot of similar issues.

This bill started out as a big, broad bill, a huge bill. We had a great public hearing on the issue. That was in the First Session of the 126<sup>th</sup> and we asked both parties: "Look, we left it at that. We'd like to have you go forth and have a meeting and see if you can reach compromise, as it is what we all do to every committee." It makes it a lot easier on us on the outcome of the bill. I will say right here, right now, I didn't get that. Once we brought the bill back and had the first work session it looked like we were going to do something. Cooler heads prevailed and they kind of got together. I wouldn't say really it was in unison or anything, and one side said, "We don't like anything, no compromise." So I tried to pare the bill down. I pared it down again and then I pared it down again. We have these four things that we're trying to do. In fairness, I feel really proud about this because this is minimal compared to where we started. I would hope that, through all the different things that you're going to hear, the one thing that I would leave with you is this is a bill that is very similar to the one we all supported before and I see no reason why we don't and I hope to hear a lot of the reasons why it is bad. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the pending motion. Mr. President, I feel this is a matter that puts government where it shouldn't be, between two business people, two entities, who have come together for the purpose of both benefiting from a bilateral agreement. The issues that were scaled down, as my good colleague and the gentleman from Oxford said, are the four issues that they felt might be appropriate, but in the course of the hearing, which was probably one of our more lengthy hearings, Mr. President, we found that there were as many people who had concerns about what we were doing, involving them in these types of issues legislatively, as who had come forward in support of this. Clearly, this is one of those issues, as with perhaps a family dynamic, where you're in the midst of a disagreement

between two of your children. It's never a healthy place to be. Sometimes you have to let them sort those issues out themselves, Mr. President, so they can learn from the process and grow. Franchising in America is a classic example of where people have gotten together, they have recognized that there were common interests, there was more that united them than divided them, and, most importantly, they were going to be successful if they worked their differences out internally. To involve government in the process, I think, brings us to a dangerous intersection that doesn't have the right signage yet. That is why we proposed the Majority Report, which, unfortunately, is not before us. I think, Mr. President, if you look at the 3,500 franchises that are here in Maine, and I think most of us in this room has somebody who represents one or two of those in our districts and we can talk to many of them because they aren't corporate entities, they are our neighbors and our friends and they employ a lot of people. Their ability to employ those people is based upon the amount of profit that they can make after the sale and a lot of that profit derives from the fact that they have a corporate partner who has the overall perspective of what is appealing to today's consumer and they are sharing that information. Sometimes it's cost them considerable time and money in order to come up with that. They are also the ones who provide a conduit for the materials and the resources that many times are not available locally to provide these franchises with the consistency that makes us want to go there.

A couple of points that I want you to consider is let's say that they choose not to follow all of the agreements that are in this contract, they don't want to be open certain hours, they don't want to offer the price that's been advertised on the radio and television and in the coupons we get. Imagine it's your daughter standing at the counter getting yelled at by that unhappy client because that franchise chose not to participate in those promotions. For those of us who work late hours here, where else would we go to eat in Augusta late at night if it were not for the good work of those many local franchises?

Mr. President, with that I respectfully ask that we not support the current motion before us and move on to the Majority Report. Thank you, Mr. President.

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

Senator **CLEVELAND:** Thank you Mr. President. Women and men of the Senate, I rise because I oppose the motion on the floor today and, as a member of the committee, you'll note in the report that I supported the Majority Report, Report A, when it was reported out of the committee. It's not because I don't support the Legislature taking action when it's appropriate to put certain guidelines and laws in place that protect franchisees. In fact, I voted in the past for such protections, including the automobile dealer's franchise, but that was a much different bill. In fact, it was a unanimous report and it was supported by all parties, franchisees, as well as the auto dealer representatives. That bill dealt with very different issues than in this particular bill. I think when we proceed in a course of action, when we want to impose the will of the state between two private entities who have entered into a contract of their own free will, with the full opportunity to review all of the rules and requirements and duties and responsibilities on both parties, and they have willingly entered into that agreement, we should proceed with great caution before we abrogate those kinds of business contracts. I think we ought

to do it based on the facts that we have before us and we ought to be very careful that we don't proceed based on an emotional argument or an emotional reaction to something that we feel or perceive. I know that in my life there have been times when I've allowed my emotions to supersede my judgment. I quickly learned that I regretted that because of the consequences of my decision-making process. I've tried to discipline myself to set my emotions aside and make sure that I have the facts straight before I let my emotions rule my judgment.

There are certain basic requirements, I think, that we ought to meet before we make this kind of decision. Let me tell what I think they are. The first is: is there any harm really being done? We know that there are scores, hundreds of different franchisees. All kinds from all different perspectives. We also know that the vast majority of them seem to be quite satisfied with their relationship. There are a few, perhaps, who have some concerns, but certainly not all. We also ought to know how widespread this problem is. Is it just localized with one or two or a handful of franchisors or is it widespread? Thirdly, we really ought to know that there is a public interest involved here before we interject the state to solve a problem. We ought to be solving a problem for a public interest, not a complaint between two business entities that are both very sophisticated, both do very well financially, neither one of these are impoverished in any way, they both have access to excellent legal counsel to guide and direct them, financial counsel to make their decisions. This is not some poor fellow that doesn't have resources to defend themselves. They know perfectly well and have full access to the kind of resources they need to make an informed decision. Fourth, when we enter these kinds of actions we ought to be very careful that we don't create unintended consequences that are going to be more detrimental in the long run, that we didn't anticipate. From what I've reviewed in this, it is not clear at all what are the harms specifically that are being done. It's not clear at all that it can't be remedied by the parties themselves. We don't know how widespread the problems are and what the particular problems might be between any of the franchisees and franchisors. I don't think it's clear what the public interest is here. Who is it that we're protecting? The consumers at the counter? Are they having a problem? Is there some kind of concern that we need to protect them from? I haven't heard that raised. Would the end result be that we've increased opportunities for jobs and employment in this state or have we unintentionally created a situation where there may be less? I think the jury's out on that. I think we need to proceed with caution. I urge you, men and women of the Senate, to think carefully before you cast your vote today. I think caution is a good guide word. Unless you're very clear about the need for this bill, proceed with great caution so you don't regret your decision in a very short amount of time. I think there's an opportunity here, if this motion doesn't prevail, that's there's another report. That report will allow us to do this in a deliberate and thoughtful way, that we can look at the issues that I have laid out here, we can determine the full extent of the problem, we can see what appropriate action, if any, is needed, and we can take that action in a more focused and specific way as opposed to spreading it out across every franchisee and every franchisor in this state. I would urge you, men and women, not to support the current motion on the floor.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I support the report that's before us. I don't believe that studying an issue like this actually is very good at all because I think it puts some people even more in jeopardy. It certainly seems to me that there is an issue here because people that are in a very difficult position have put themselves out on the line by coming forward with this legislation. I don't know all the ins and outs of how these relationships work in this particular instance, but I do know that just in the time that we've been here Senator Patrick has brought up automobile dealerships. In the 125<sup>th</sup> we dealt with power motor sports and heavy industrial equipment. These were all issues that seemed very close to this one as far as that some people seemed to have all the power and were not willing to change their contracts at all to help the people that were working for them in those industries. It seemed like there were some very serious issues that were coming about and there was no place for franchisees to go ahead and have those issues rectified. That's why they had to come to the Legislature and that's why we're looking at this issue today. Again, it's not my place. I have run one franchise a number of years ago. I really don't know an awful lot about that, but what I do know is my own personal business in logging. We've dealt with this before way back in the 121<sup>st</sup>. There was a bill here in this Legislature to give collective bargaining to independent contractors in this state. The reason why that bill was needed, and so many people really put themselves, in my opinion, in harm's way, is that some of the contracts that these independent contractors were asked to sign actually said that if they quit the job that they were working on for any reason, low pay or bad chance, the landowner actually could take their equipment and finish the job even though they had quit. That's what was in the contracts. There's a term that we use in Northern Maine, I don't know if it's used other places. Financial slavery. Once you've signed onto that contract, and people can argue any way they want but let me tell you whenever there are only a few places to work and that is your occupation, many times you'll sign contracts because you have no other option and there is nowhere else to really go. Very hardworking and intelligent people that I know have signed these contracts because that's the only option there is. I've seen it firsthand and I don't really care what anyone thinks about me or thinks about the issues that I bring to the forefront about logging. I know that sometimes there are people that have all the power and, when those times come, I think it's appropriate that government steps in to try and even out the playing field. That legislation back in the 121<sup>st</sup> never had anyone ever use it. It actually was repealed four or five years later. What it did do was have that landowner rework their contracts in a fairer way. Now there are some people that actually feel better about their situation. I think this legislation, if nothing else, puts in place that the Legislature is watching and it may be actually something the parties will sit down. As Senator Patrick said, they didn't want to have any compromise. Well, I think today people might actually understand that compromise is better than what we may be discussing today. I'm more than willing to support it because I know that there's times that there's just no other option.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, as a man true to my word, this is number two. I want to thank the good Senator

from Androscoggin because I think, in fact, he actually helped make most of my reasons for passing this bill. Proceed with caution. We really proceeded with caution when the vote was 35 to nothing to make major changes to the franchise laws, the business-to-business contracts between automobile manufacturers and Maine dealers. I know I proceeded with caution when I made sure that I cast my vote for those changes, even knowing that there could be some unintended consequences down the road because every time we pass a bill there's unintended consequences. If we move on to the Majority Report, ladies and gentlemen of the Senate, we all know, what does it mean to have a study? We're going to have a study on a bill, it's arrivederci. See you later. It's done, kaput. What are the facts of Maine? The total number of franchise units in Maine has been declining since 2005; 3,934 units in 2005. In 2007 it dipped down to 3,674 units. An estimated 3,205 units today. I wonder if there is a problem, ladies and gentlemen. Over 20 states and five Canadian Provinces currently have franchise relationship statutes in place. I believe they all proceeded with caution. As matter of fact, in 1994 the 116<sup>th</sup> Maine Legislature passed the Franchise Practices Act, L.D. 1916, through the Maine House and Senate. It was vetoed by then-Governor McKernan, Chief Executive McKernan. The Act had protections for franchise owners that were far more reaching than today's Small Business Investment Act, L.D. 1484. The other franchise bill we talked about when that first became into law in the late 1970s or early 1980s.

We talked about the principles. That's what we're talking about here, ladies and gentlemen. Principle number one, reasonableness and good faith. While many ethical franchisors will deal in good faith with Maine franchise owners, there are many who do not. L.D. 1418, the solution is, especially includes the duty to act in good faith and in accordance with reasonable standards. The duty of good faith has been interpreted to require that the franchisor enforce the franchise agreement and operations manual in a manner that takes into account the interests of the franchise owner without malice or ulterior purpose.

Principle number two, cancellation, termination, and non-renewal unless for a good cause. The issue, Maine franchise owners have lost their life savings and have been forced into bankruptcy because of the franchisor inappropriately using contracted termination powers. Throughout this whole process, ladies and gentlemen of the Senate, I have heard of many horror stories. A franchisor may terminate a franchisee prior to the expiration of the contract only for good cause; that is if the Maine franchise owner fails to comply with the material lawful requirement of the franchise agreement. L.D. 1458 states that the franchisor shall give a Maine franchise owner written notice at least 90 days in advance and cure period of 60 days is required prior to termination or renewal. If they don't want to give someone who has their life savings into their own franchise a chance to cure the problem and the franchisor wants to take their business away from them, I don't see why we're going to have to worry about proceeding with caution on that one.

Principle number three, transference survivorship. When a Maine franchise owner wants to sell his or her business, the franchisor often requires as a condition of completing the sale charges to the franchise or franchise agreement that may reduce the value of the business to a new transferee. Maine franchise owners are allowed to transfer their business if they so desire and allow the Maine franchise owner to obtain the value of the franchise while not forcing the franchisor to compromise its own

standards. The transferee must satisfy the reasonable qualifications of the franchisor.

Principle number four, jurisdiction. If you've got a multi-billion dollar corporation and you own one or two McDonald's, Burger King's, or whatever you own for franchises in the state of Maine, and they want to try to inflict harm on you, and you want to fight back, you're going to have to go to Washington D.C. or somewhere to fight your case. If anyone thinks that we have the money just because you have one franchise or two that you're made of money. I don't think so. Just because you own one or two franchises the streets aren't paved with gold.

Ladies and gentlemen, we're talking about fairness in business. We're talking about someone who can lower the abilities over them and down the road inflict major damage to an owner of a business, take away his business, pull all kinds of shenanigans that I don't think is fair. Ladies and gentlemen, I hope that you will vote as I voted in the other franchise agreement. I did proceed with caution. I put an awful lot of time, energy, and effort, a year and a half, into this bill. I believe this is the right thing to do at the right time. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I reluctantly rise again because I'm sure you've studied this issue in great detail, but I think that we need to correct a couple of points. An auto manufacturer and an auto dealer is very different than the various and sundry franchises that came before us in the hearing. I respect my good friend from Oxford because he runs a balanced and fair committee and find it disappointing when we come to a conclusion in committee, Mr. President, and are not able to carry that forth appropriately on the floor because this issue clearly is not ready for prime time yet. There has not been a state that has passed legislation this sweeping in the last 20 years. The last time that this type of legislation was addressed they found that the errors of some of their actions in that bill required them to rescind many parts of it. If we are going to properly address the diversity of people that want the opportunity that franchises offer and we want to make some course corrections, I'm not opposed to that, but we should do it in a manner that takes into account what those who have already made peace with their franchisees, as well as those who have yet to come to those terms. Everything's evolving. We all change. We all grow. We learn from those experiences. I hope that we can be wise enough in this Body to learn from the experience of that committee hearing and not move forward with the pending motion. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Tuttle.

Senator **TUTTLE:** Thank you Mr. President. Like the previous speakers, I have nothing new to add.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Accept Report "B", Ought to Pass as Amended by Committee Amendment "B" (H-670), in 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 (#524)**

YEAS: Senators: GERZOF SKY, HASKELL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, PATRICK, TUTTLE, VALENTINO, WHITTEMORE

NAYS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GRATWICK, HAMPER, HILL, KATZ, LANGLEY, MASON, MILLETT, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

EXCUSED: Senator: YOUNGBLOOD

10 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **PATRICK** of Oxford to **ACCEPT** Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-670)**, in concurrence, **FAILED**.

Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-669)** **ACCEPTED**, in **NON-CONCURRENCE**.

**READ ONCE**.

Committee Amendment "A" (H-669) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-669)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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Senate at Ease.

Senate called to order by the President.

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Senator **JACKSON** of Aroostook was granted unanimous consent to address the Senate off the Record.

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Senator **KATZ** of Kennebec was granted unanimous consent to address the Senate off the Record.

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**RECESSED** until 12:30 in the afternoon.

After Recess

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator CLEVELAND for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Reform Regulation of Consumer-owned Water Utilities"

S.P. 710 L.D. 1784

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-484)**.

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

**READ ONCE**.

Committee Amendment "A" (S-484) **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.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Implement the Recommendations Contained in the State Government Evaluation Act Review of the Maine Public Employees Retirement System"

H.P. 1297 L.D. 1806

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

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

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

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

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**Ought to Pass As Amended**

April 1, 2014

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Expanding Access to Early Postsecondary Education" H.P. 1289 L.D. 1797

The 126th Legislature of the State of Maine  
State House  
Augusta, Maine

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-783)**.

Dear Honorable Members of the 126th Legislature:

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-783)**.

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 1685, "Resolve, To Strengthen the Protection of Children from Abuse and Neglect."

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

I am in favor of efforts to make Maine children safe from abuse and neglect. However, it makes no sense for the Legislature to demand work from the Department of Health and Human Services through a resolve when the Department has volunteered to conduct the work in a reasonable timeframe. The Executive and Legislative branches can work together cooperatively and productively, and to that end, not every solution needs to be a legislative enactment. Sometimes, the less complicated the solution, the easier it is to accomplish.

**READ ONCE.**

Committee Amendment "A" (H-783) **READ** and **ADOPTED**, in concurrence.

For these reasons, I return LD 1685 unsigned and vetoed. I strongly urge the Legislature to sustain it.

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

Sincerely,

\_\_\_\_\_  
The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Address Recommendations from the Report by the Office of Program Evaluation and Government Accountability Regarding the Public Utilities Commission" H.P. 1303 L.D. 1816

S/Paul R. LePage  
Governor

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-784)**.

**READ and ORDERED PLACED ON FILE.**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-784)**.

The accompanying Resolve:

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

Resolve, To Strengthen the Protection of Children from Abuse and Neglect (EMERGENCY)

H.P. 1208 L.D. 1685

**READ ONCE.**

Committee Amendment "A" (H-784) **READ** and **ADOPTED**, in concurrence.

Comes from the House, 136 members having voted in the affirmative and 6 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.

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

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

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

**COMMUNICATIONS**

The Following Communication: H.C. 395

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

Senator  **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I would like to stand just briefly and talk about this bill. Yesterday the Chief Executive declared April Child Abuse and Neglect Prevention Month. It sounded great, with all kinds of sympathetic promises. Later in the day the Chief Executive vetoed a bill that would hold childcare providers accountable and require the Department to oversee the providers in a responsible and comprehensive way. This bill was the result of several complaints in the past couple of months of abuse in several daycares and the Department was aware of the neglect. They refused to go and oversee and investigate the issues for up to 15 months at any given time. Others also languished while frontline workers were just ignored. I'm sure that everybody heard of the abuse in the Lyman daycare center, where children were forced to drink milk, had soap put in their mouths, even had broken

fingers, some had head injuries that required stitches. Parents pay dearly for their daycare and their child should be thriving in a safe place. I am just astounded when we are told that the Department is doing everything possible to make sure that the daycare centers in this state, most of them are, but there are a few that are not reaching standards that should be held accountable. I ask you to please vote to override the L.D. 1685. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just wanted to read one line in the Supplement number four. It says that the Department will conduct the work in a reasonable timeframe. When it's your children, when it's your kid, there is nothing reasonable about it. The need is immediate. Let's override this veto today. That way what we'll have is immediate.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#525)**

YEAS: Senators: BOYLE, CAIN, CLEVELAND, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFISKY, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, VALENTINO, VITELLI, WHITTEMORE, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senator: BURNS

EXCUSED: Senator: YOUNGBLOOD

33 Senators having voted in the affirmative and 1 Senator having voted in the negative, with 1 Senator being excused, and 33 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.

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

**COMMUNICATIONS**

The Following Communication: H.C. 394

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

April 1, 2014

The 126th Legislature of the State of Maine  
State House  
Augusta, Maine

Dear Honorable Members of the 126th 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 1597, "An Act to Clarify Provisions of the Medical Marijuana Act."

This bill makes it legal for an elected official to visit a medical marijuana grow site operated by a registered caregiver or dispensary. Such a visit currently is against the law. This bill would apply to all elected officials, even those that would have no legislative authority whatsoever over medical marijuana issues, such as probate judges or town road commissioners. It seems hypocritical for us as elected officials to exempt ourselves from the law, especially when most of those elected would not need specialized knowledge of medical marijuana to perform their job duties.

For these reasons, I return LD 1597 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 Clarify Provisions of the Maine Medical Use of Marijuana Act (EMERGENCY)

H.P. 1168 L.D. 1597

Comes from the House, 129 members having voted in the affirmative and 12 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.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#526)**

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, TUTTLE, VALENTINO, VITELLI, WHITTEMORE, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, GERZOFSKY, THIBODEAU, THOMAS

EXCUSED: Senator: YOUNGBLOOD

29 Senators having voted in the affirmative and 5 Senators having voted in the negative, with 1 Senator being excused, and 29 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.

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

**COMMUNICATIONS**

The Following Communication: S.C. 869

**STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
OFFICE OF THE GOVERNOR**

1 April 2014

The 126<sup>th</sup> Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 126<sup>th</sup> 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 1717, "Resolve, To Support Homeless Youth Shelters."

Without a doubt, it is important to support homeless youth shelters. However, funding for these shelters appears to be adequate. All of the homeless youth shelters with which the Department of Health and Human Services contracts are at below 80% capacity. This resolve requires the Department to allocate funding in a way that prevents it from responding to changing needs. Rather than using old data to preserve funding for

homeless shelters in specific legislative districts, the money should be spent where the need is greatest. This resolve would prevent that from happening and would be a disservice to homeless youth.

For these reasons, I return LD 1717 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 Resolve:

Resolve, To Support Homeless Youth Shelters  
S.P. 682 L.D. 1717

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, again, April is Child Abuse and Prevention Month. These are children. This bill would have actually allowed the Second District to maintain and to keep the dollars that were awarded to them originally in the RFP that was awarded to the First, Second and Third Districts in Maine for homeless shelters. This is the only 24 hour shelter in the state of Maine. This only covers the current RFP cycle. After the two-year period it would go back to ground zero, where everybody would have to again apply for their funding. This is the only 24-hour youth shelter in the state of Maine. We had the shelters from Bangor and Portland come to our Committee to support this bill because if they have a child that's 14, 15, or 16 years old and needed a 24-hour shelter, it's the only shelter they have to be able to refer the kids to. It's only \$7,500 to begin with. We have to fundraise constantly to keep this shelter open and the Chief Executive would say that we have plenty of money and that there's only 80% occupancy. I don't know where those numbers come from. Certainly that is not accurate. The Portland shelters are overflowing almost every night and some of the youngsters are sent to the adult shelters. The Department of Corrections as well as the Department of Health and Human Services uses the New Beginnings Shelter in Lewiston when their kids need placement and we need to keep the facility open. Thank you, 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, wish to get up to speak to this just very briefly. Six weeks ago I spent a morning at Shaw House in Bangor. This is a homeless shelter for adolescent kids in Bangor. Extraordinarily sobering. Very, very sad. This place, they turn away people. As far as where the 80% came from is entirely unclear. They are desperately in need of more funds. It puts our lives into a little perspective to go stay at a place like this. I think this is an essential program. Thank you, sir.

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

Senator **CLEVELAND:** Thank you Mr. President. Women and men of the Senate, the New Beginnings Shelter for teenagers, young people, is in the Lewiston/Auburn area. I know the Executive Director personally. I know the facility. I've had many conversations with him. I know many of the members on the board of trustees. They are constantly desperate for trying to raise enough money to provide the essential services of sheltering these youths and, in many cases, trying to reunite them with their families. When young people that age have no place to go, they're out on the streets, they are in the alleys, they are in boxes, they are in the dumpsters, they are trying to go to school and finish their education, in many cases without any place to live. They are exposed to all kinds of exploitations, sexual or physical abuse. There is no question that there is not adequate resources for the number of young people who desperately need a place just to be safe. Many of you, I know you all do, have young people and know young people. That is no way for them to have to live, without a safe place to go. I strongly urge you to vote to override this veto.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote was taken by the Yeas and Nays.

A vote of yes was in favor of the Bill.

A vote of no was in favor of sustaining the veto of the Governor.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#527)**

**YEAS:** Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFOSKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, VITELLI, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

**NAYS:** Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE

**EXCUSED:** Senator: YOUNGBLOOD

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, and 20 being less than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **SUSTAINED.**

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

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

**ENACTORS**

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

**Emergency Measure**

An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption

S.P. 618 L.D. 1627  
(C "A" S-462)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators 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.

**Emergency Measure**

An Act To Assist Victims of Human Trafficking

H.P. 1238 L.D. 1730  
(C "A" H-763)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators 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.

**Emergency Measure**

An Act To Protect Jobs in the Forest Product Industry

H.P. 1283 L.D. 1792  
(C "A" H-758)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators 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.

**Emergency Resolve**

Resolve, Concerning Maine's Involuntary Treatment and Involuntary Commitment Processes

H.P. 1244 L.D. 1738  
(C "A" H-764)

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

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**Emergency Resolve**

Resolve, To Establish the Commission To Study College Affordability and College Completion

S.P. 748 L.D. 1849  
(S "A" S-468)

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

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**Acts**

An Act To Clarify the Law Governing the Maintenance of Veterans' Grave Sites

S.P. 656 L.D. 1662  
(C "A" S-469)

An Act To Amend the State's Tax Laws

S.P. 673 L.D. 1707  
(C "A" S-472)

An Act To Protect the State's Authority in Issues Concerning Federal Relicensing of Dams Located in the State

H.P. 1315 L.D. 1826  
(C "A" H-766)

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

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An Act To Require Health Insurers To Provide Coverage for Human Leukocyte Antigen Testing To Establish Bone Marrow Donor Transplantation Suitability

H.P. 1172 L.D. 1600  
(C "A" H-755)

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

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An Act To Modernize and Improve the Efficiency of Maine's Courts

H.P. 1281 L.D. 1789  
(C "A" H-765)

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

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

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Senator **DUTREMBLE** of York was granted unanimous consent to address the Senate on the Record.

Senator **DUTREMBLE**: Thank you Mr. President. Before we begin, I'll ask the Body to please close their eyes. Now imagine yourself, with your eyes closed, walking to your committee meeting or offices. This is what we, as firefighters, see, or don't see, in a fire. Yesterday and today my brothers and sisters are attending the funerals of our two fallen brothers who worked for Boston Fire. In their honor, I will read the following: The Firefighter's 23<sup>rd</sup> Psalm.

The Lord is my fire chief, he gives me everything I need.  
He makes me be still and know his peace as he leads me through dangerous conditions.

He restores my passion to rescue and save.  
He gives me escapes from death for his namesake even though I crawl through the Valley of Smoke and Heat.

I will not fear collapses or flashovers, for you are with me.  
Your wisdom and steadfastness, they both comfort me.  
You have prepared miraculous protections for me in the presence of life threatening circumstances.

You have anointed my hand lines, my efforts overflow with your blessings.

Surely your goodness and unending love are with me on the calls of my days.

I have been tried through the fires and will one day live in the presence of my Lord forever.

As we open our eyes, I would like us all to remember my brothers from Boston who could not open their eyes today. Amen.

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Senator **KATZ** of Kennebec was granted unanimous consent to address the Senate off the Record.

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Senator **HILL** of York was granted unanimous consent to address the Senate off the Record.

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Senator **HASKELL** of Cumberland was granted unanimous consent to address the Senate off the Record.

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On motion by Senator **JACKSON** of Aroostook, **ADJOURNED** to Thursday, April 3, 2014, at 10:00 in the morning.