

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

In Senate Chamber
Monday
May 23, 2011

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Senator Christopher Rector of Knox County.

SENATOR RECTOR: Thank you Mr. President. It's a privilege to be here. I would also ask that we all hold Representative Wintle in our prayers. With that we can begin. Please be in the spirit of prayer.

God of all, You made us in Your image and remind us that we are all Your children. Thank You for the start of this and each new day. Gray or sun, rain, fog, or snow, it is a gift. Watch over each of us as we do the work of the people of Maine. Give us the humility to know that we are here as caretakers, given the gift and awesome responsibility to serve as Senators, following in a long tradition that will continue long after we are gone. Give us the wisdom to discern what You would have us do so that we know that we are executing our authority with justice, fairness, and abundant kindness towards all. Let us know when we are veering off the path that You have set for us. Let us listen and respect each other and deal with each other with dignity, especially those whose ideas are different from our own. Help us to remember that we are all here with the best intentions. Thank You for all those around us who help to make our work possible, the many who staff this important institution. Thank You for the support of our family and friends who make our job possible. Allow us all to be proud Mainers, helping to perfect the opportunities in this great state. At the end of the day give us rest and the sense of a job well done. Amen.

Pledge of Allegiance led by Senator Roger L. Sherman of Aroostook County.

Reading of the Journal of Thursday, May 19, 2011.

Doctor of the day, Dr. Carla Burkley, MD of Auburn.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Repeal the Laws Governing the Capital Investment Fund"

S.P. 173 L.D. 581

In Senate, May 18, 2011, **PASSED TO BE ENGROSSED.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-295), in NON-CONCURRENCE.**

On motion by Senator **McCORMICK** of Kennebec, the Senate **RECEDED** and **CONCURRED.**

Non-Concurrent Matter

Bill "An Act To Increase the Availability of Independent Medical Examiners under the Workers' Compensation Act of 1992" (EMERGENCY)

H.P. 791 L.D. 1056
(C "A" H-204)

In Senate, May 12, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204), in concurrence.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-204) AS AMENDED BY HOUSE AMENDMENT "A" (H-279) thereto, in NON-CONCURRENCE.**

On motion by Senator **RECTOR** of Knox, the Senate **RECEDED** and **CONCURRED.**

House Paper

Bill "An Act To Tax Water Used by Hydroelectric Facilities" H.P. 1156 L.D. 1574

Presented by Representative CLARK of Millinocket. Cosponsored by Senators: JACKSON of Aroostook, PATRICK of Oxford, SHERMAN of Aroostook, Representatives: BERRY of Bowdoinham, DAVIS of Sangerville, MARTIN of Eagle Lake. Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **TAXATION** suggested and ordered printed.

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED.**

Bill and accompanying papers **INDEFINITELY POSTPONED,** in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 386

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

May 19, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice and Public Safety has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 963 An Act To Ensure Humane Treatment for Special Management Prisoners
- L.D. 1163 An Act To Implement the Recommendations of the Commissioner of Corrections' Study Regarding the Placement of Special Management Prisoners
- L.D. 1438 An Act To Require Videoconferencing for Civil and Criminal Proceedings for Inmates
- L.D. 1484 An Act Regarding Retired Law Enforcement Officers' Retirement Credentials
- L.D. 1525 An Act To Expand Reciprocity by Allowing Certain Nonresidents To Possess a Firearm in Maine
- L.D. 1542 An Act To Require All Correctional Facilities in the State To Participate in the Unified Inmate Transportation System

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Garrett P. Mason
Senate Chair

S/Rep. Gary E. Plummer
House Chair

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

The Following Communication: S.C. 387

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 19, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 929 Resolve, To Establish a Study Group To Review the Teacher Certification Process

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Brian D. Langley
Senate Chair

S/Rep. David E. Richardson
House Chair

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

The Following Communication: S.C. 388

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

May 19, 2011

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

Dear President Raye and Speaker Nutting:

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

L.D. 1311 An Act To Specify That Providers of Voice Over Internet Protocol Services and Internet Protocol Enabled Services Do Not Constitute Telephone Utilities

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

We have also notified the sponsor and cosponsors of the Committee's action.

May 19, 2011

Sincerely,

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

S/Sen. Michael D. Thibodeau
Senate Chair

S/Rep. Stacey A. Fitts
House Chair

Dear President Raye and Speaker Nutting:

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

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

The Following Communication: S.C. 389

L.D. 1223 An Act Regarding Credit Card Transactions for InforME Services

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

We have also notified the sponsor and cosponsors of the Committee's action.

May 19, 2011

Sincerely,

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

S/Sen. Douglas A. Thomas
Senate Chair

S/Rep. H. David Cotta
House Chair

Dear President Raye and Speaker Nutting:

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

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bill out "Ought Not to Pass":

The Following Communication: S.C. 391

L.D. 747 An Act To Require Hospital Credit Reporting That Is Fair to Consumers

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
COMMITTEE ON VETERANS AND LEGAL AFFAIRS**

We have also notified the sponsor and cosponsors of the Committee's action.

May 19, 2011

Sincerely,

Honorable Kevin L. Raye, President of the Senate
Honorable Robert W. Nutting, Speaker of the House
125th Legislature
State House
Augusta, Maine 04333

S/Sen. Earle L. McCormick
Senate Chair

S/Rep. Meredith N. Strang Burgess
House Chair

Dear President Raye and Speaker Nutting:

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

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Veterans and Legal Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

The Following Communication: S.C. 390

L.D. 820 An Act To Alter the Distribution of Maine Clean Election Act Funding

L.D. 1277 An Act To Exempt Contributions for the Retirement of Old Campaign Debt from Contribution Limits

Signed:

Senator: SCHNEIDER of Penobscot

Representatives: KENT of Woolwich, McCABE of Skowhegan, O'BRIEN of Lincolnville

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-244).

Reports READ.

Senator SHERMAN of Aroostook moved the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

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

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Nichi S. Farnham Senate Chair

S/Rep. Michael G. Beaulieu House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act To Revise Notification Requirements for Pesticide Application" H.P. 181 L.D. 228

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-244).

Signed:

Senators: SHERMAN of Aroostook, THIBODEAU of Waldo

Representatives: EDGECOMB of Caribou, BLACK of Wilton, CRAY of Palmyra, DILL of Old Town, FOSTER of Augusta, GIFFORD of Lincoln, TIMBERLAKE of Turner

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

Divided Report

The Majority of the Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property"

H.P. 207 L.D. 254

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-160).

Signed:

Senators: MARTIN of Kennebec, PATRICK of Oxford, TRAHAN of Lincoln

Representatives: BRIGGS of Mexico, CLARK of Millinocket, EBERLE of South Portland, ESPLING of New Gloucester, GUERIN of Glenburn, SARTY of Denmark, SHAW of Standish, WOOD of Sabattus

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

Signed:

Representatives:

DAVIS of Sangerville
CRAFTS of Lisbon

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-160)**.

Reports **READ**.

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

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

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Help Maine's Employers To Recruit Skilled Workers by Expanding the Availability of the Educational Opportunity Tax Credit"

H.P. 872 L.D. 1174

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-267)**.

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BERRY of Bowdoinham
BICKFORD of Auburn
BRYANT of Windham
BURNS of Alfred
FLEMINGS of Bar Harbor
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

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

Signed:

Senator:

WOODBURY of Cumberland

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-267)**.

Reports **READ**.

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

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Ought to Pass As Amended

Senator **SNOWE-MELLO** for the Committee on **MARINE RESOURCES** on Bill "An Act Regarding the Saltwater Recreational Fishing Registry" (EMERGENCY)

S.P. 60 L.D. 210

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-136)**.

Report **READ**.

On motion by Senator **SNOWE-MELLO** of Androscoggin, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing the Maine Health Data Organization Relating to Retail Pharmacies"

S.P. 164 L.D. 572

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

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

EVES of North Berwick
FOSSEL of Alna
MALABY of Hancock
PETERSON of Rumford
SANBORN of Gorham
SANDERSON of Chelsea
SIROCKI of Scarborough
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-138).**

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland
O'CONNOR of Berwick

Reports **READ.**

Senator **McCORMICK** of Kennebec moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

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

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Create the State Advanced Practice Registered Nursing Board"

S.P. 461 L.D. 1472

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

Signed:

Senators:

RECTOR of Knox
JACKSON of Aroostook
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham
DOW of Waldoboro
DRISCOLL of Westbrook
GILBERT of Jay
HERBIG of Belfast
HUNT of Buxton
NEWENDYKE of Litchfield
TUTTLE of Sanford
WINTLE of Garland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-137).**

Signed:

Representative:

VOLK of Scarborough

Reports **READ.**

On motion by Senator **RECTOR** of Knox, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**

Sent down for concurrence.

Divided Report

The Majority of the Committee on **TAXATION** on Bill "An Act To Conform Maine's Estate Tax to the Federal Estate Tax" S.P. 347 L.D. 1147

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-133).**

Signed:

Senators:

TRAHAN of Lincoln
HASTINGS of Oxford
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls
BENNETT of Kennebunk
BICKFORD of Auburn
BURNS of Alfred
HARMON of Palermo
PILON of Saco
WATERHOUSE of Bridgton

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

Signed:

Representatives:

BERRY of Bowdoinham
BRYANT of Windham
FLEMINGS of Bar Harbor

Reports **READ.**

Senator **TRAHAN** of Lincoln moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

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:

House

Bill "An Act To Amend and Clarify Certain Portions of the Dental Practice Laws"

H.P. 574 L.D. 767

Bill "An Act To Establish an Integrated Statewide System To Manage and Enforce Electronic Warrants"

H.P. 961 L.D. 1315

Bill "An Act To Repeal the Law Regarding DNA Collection"

H.P. 964 L.D. 1318

Bill "An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions" (EMERGENCY)

H.P. 1041 L.D. 1415

Bill "An Act To Amend the Laws Governing Prescription Monitoring Information"

H.P. 1050 L.D. 1429

Bill "An Act To Adopt the Interstate Prescription Monitoring Program Compact"

H.P. 1056 L.D. 1435

READ A SECOND TIME and **PASSED TO BE ENGROSSED**, in concurrence.

House As Amended

Bill "An Act To Improve the Maine Seed Capital Tax Credit"

H.P. 14 L.D. 22
(C "A" H-217)

Bill "An Act To Eliminate Certain Restrictions on the Installation of Chimneys and Equipment"

H.P. 106 L.D. 124
(C "A" H-253)

Bill "An Act To Eliminate the Restriction on Net Operating Loss Carry-forwards"

H.P. 123 L.D. 140
(C "A" H-255)

Bill "An Act To Prohibit the Sale of Russian Olive and Other Invasive Terrestrial Plants"

H.P. 159 L.D. 182
(C "A" H-259)

Bill "An Act To Provide for Equal Rights of Appeal for the State and Defendants Concerning Post-judgment DNA Analysis"

H.P. 299 L.D. 373
(C "A" H-269)

Bill "An Act To Assist School Administrative Units in Providing Health Insurance to Their Employees"

H.P. 322 L.D. 404
(C "A" H-262)

Bill "An Act To Reduce Certain Highway Fund Obligations"

H.P. 364 L.D. 471
(C "A" H-280)

Bill "An Act To Amend Animal Welfare Laws"

H.P. 482 L.D. 652
(C "A" H-260)

Bill "An Act To Repeal the Alternative Minimum Tax"

H.P. 633 L.D. 836
(C "A" H-154)

Resolve, Requiring the Department of Health and Human Services To Conduct a Review of Medicaid 'Any Willing Provider' Requirements

H.P. 693 L.D. 933
(C "A" H-284)

Bill "An Act Regarding the Use of Methadone by Operators of Commercial Motor Vehicles"

H.P. 710 L.D. 966
(C "A" H-254)

Bill "An Act To Authorize the Board of Licensure of Podiatric Medicine and the State Board of Veterinary Medicine To Establish a Podiatrist Health Program and a Veterinarian Health Program"

H.P. 759 L.D. 1023
(C "A" H-285)

Bill "An Act To Limit Increases in the Unemployment Contribution Rate"

H.P. 792 L.D. 1057
(C "A" H-286)

Bill "An Act To Improve Awareness of Smoking Policies in Maine Rental Housing and Condominiums"

H.P. 802 L.D. 1067
(C "A" H-276)

Bill "An Act To Modify the Requirement To Replace Trees Cut Down in Violation of Local Laws"

H.P. 820 L.D. 1108
(C "A" H-275)

Bill "An Act To Remove the Requirement That Employers Offer Substance Abuse Services to Employees Who Fail Drug Tests"

H.P. 932 L.D. 1241
(C "A" H-287)

Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2011-12" (EMERGENCY)

H.P. 1074 L.D. 1459
(C "A" H-266)

Resolve, Directing the Commissioner of Marine Resources To Contract for an Independent Analysis of the Limited Entry Lobster License System

H.P. 1124 L.D. 1532
(C "A" H-278)

Resolve, To Foster Energy Efficiency Improvements and Other Needed Renovations at Residential Care Facilities Funded by MaineCare (EMERGENCY)

S.P. 219 L.D. 790
(C "A" S-127)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Bill "An Act To Promote the Establishment of an Adult Day Health Care Program for Veterans in Lewiston"

S.P. 277 L.D. 873
(C "A" S-128)

Senate

Bill "An Act To Amend the Laws Governing Security Deposits of Workers' Compensation Self-insurers"

S.P. 404 L.D. 1301

Bill "An Act To Improve Access to Veterinary Medicine and Improve Veterinary Care" (EMERGENCY)

S.P. 431 L.D. 1391
(C "A" S-123)

Bill "An Act To Require the Department of Health and Human Services To License Families To Provide Care for Children in Foster Care"

S.P. 411 L.D. 1334

Bill "An Act To Amend the Nonresident Income Tax Filing Requirements"

S.P. 446 L.D. 1440
(C "A" S-134)

Bill "An Act To Update and Improve Maine's Laws Pertaining to the Rights of Persons with Intellectual Disabilities"

S.P. 495 L.D. 1548

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

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

Senate As Amended

Bill "An Act Regarding Penalties for Opting Out of Paperless Billing"

S.P. 82 L.D. 273
(S "A" S-132 to C "A" S-118)

Bill "An Act To Increase the Availability of Lead Testing for Children"

S.P. 89 L.D. 300
(C "A" S-129)

Bill "An Act To Reduce Motor Vehicle Inspection Costs"

S.P. 141 L.D. 437
(C "A" S-121)

Bill "An Act To Review State Water Quality Standards"

S.P. 148 L.D. 515
(C "A" S-130)

Bill "An Act Relating to Sales Tax on Certain Rental Vehicles"

S.P. 191 L.D. 611
(C "A" S-126)

Bill "An Act To Modify the Process Regarding the Return of Unfit Tobacco Products"

S.P. 198 L.D. 617
(C "A" S-125)

ORDERS OF THE DAY

Unfinished Business

The following matter 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 (5/18/11) Assigned matter:

SENATE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act To Reduce Fines for Certain Trucking Violations" (EMERGENCY)

S.P. 211 L.D. 722

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-114)**

Tabled - May 18, 2011, by Senator **ALFOND** of Cumberland

Pending - **ACCEPTANCE OF REPORT**

(In Senate, May 18, 2011, Report **READ.**)

Report **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-114) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

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

HOSUE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Help Maine's Employers To Recruit Skilled Workers by Expanding the Availability of the Educational Opportunity Tax Credit"

H.P. 872 L.D. 1174

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-267)** (12 members)

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

Tabled - May 23, 2011, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence

(In House, May 19, 2011, 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-267)**.)

(In Senate, May 23, 2011, Reports **READ**.)

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

READ ONCE.

Committee Amendment "A" (H-267) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

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

Off Record Remarks

RECESSED until 2:30 in the afternoon.

After Recess

Senate called to order by the President.

Off Record Remarks

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council"

H.P. 1093 L.D. 1486

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.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Amend the Laws Governing County Jail Budgeting for York County" (EMERGENCY)

H.P. 70 L.D. 82

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-289)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289)**.

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

READ ONCE.

Committee Amendment "A" (H-289) **READ.**

On motion by Senator **HOBBS** of York, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (H-289), in concurrence.

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Make Certain Synthetic Cannabinoids Illegal" H.P. 673 L.D. 914

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Prevent the Disclosure of Student Social Security Numbers" H.P. 399 L.D. 506

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act Regarding Gas Utilities under the Safety Jurisdiction of the Public Utilities Commission" H.P. 667 L.D. 908

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Provide a Temporary License To Operate a Public Dance Establishment" H.P. 645 L.D. 878

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

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299).**

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

READ ONCE.

Committee Amendment "A" (H-299) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Limit the Use of Social Security Numbers by State Agencies" H.P. 744 L.D. 1008

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **TRANSPORTATION** on Bill "An Act To Amend the Motor Vehicle Laws"

H.P. 835 L.D. 1123

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

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

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

READ ONCE.

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

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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:

Acts

An Act To Ensure Emergency Communications for Persons with Disabilities

H.P. 196 L.D. 243

An Act To Enhance Enforcement of Civil Orders of Arrest

H.P. 306 L.D. 380
(C "A" H-241)

An Act To Amend Maine Law Regarding Employment Practices for Certain Minors

S.P. 149 L.D. 516
(S "C" S-97 to C "A" S-79)

An Act To Allow a Person To Designate Information Submitted for a Hunting or Fishing License as Confidential

H.P. 464 L.D. 634

An Act To Require Insurance Companies To Reissue Qualifying Long-term Care Partnership Policies

H.P. 472 L.D. 642
(C "A" H-209)

An Act Concerning Arrests for Violating Protection from Abuse Orders

H.P. 539 L.D. 708
(C "A" H-228)

An Act To Protect Minors from Questioning by Private Investigators

H.P. 647 L.D. 880
(C "A" H-222)

An Act To Exempt Health Care Sharing Ministries from Insurance Requirements

S.P. 296 L.D. 950
(C "A" S-77)

An Act To Require 3 Years of Experience in a School Administrative Unit before a Teacher May Receive a Continuing Contract Offer

H.P. 720 L.D. 976
(C "A" H-243)

An Act To Amend the Depuration Laws

S.P. 312 L.D. 992
(C "A" S-105)

An Act To Clarify the Standard of Proof for Traffic Infractions

H.P. 741 L.D. 1005
(C "A" H-220)

An Act Concerning Independent Contractors in the Trucking and Messenger Courier Industries

S.P. 332 L.D. 1099
(C "A" S-102)

An Act To Require the Opportunity To Recite the Pledge of Allegiance in Schools

H.P. 842 L.D. 1136

An Act Regarding Reporting Procedures of Lobbyists

S.P. 351 L.D. 1151

An Act To Amend and Clarify Certain Education Statutes

H.P. 959 L.D. 1307

An Act To Amend the Laws Governing the Handling of Medical Examiner Cases

H.P. 990 L.D. 1349

An Act To Allow Police Officers To Operate Mobile Command Units without a Special License

H.P. 1068 L.D. 1454
(C "A" H-226)

An Act To Ensure That the State Is in Compliance with Certain Federal Motor Carrier Safety Regulations

H.P. 1115 L.D. 1512

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

An Act To Improve Driver Education Licensing
H.P. 555 L.D. 748
(C "A" H-227)

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

An Act To Provide Funding for the Fish Stocking Program
S.P. 64 L.D. 213
(C "A" S-110)

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

An Act To Amend the Maine Historic Preservation Tax Credit
S.P. 235 L.D. 742
(S "A" S-116 to C "A" S-89)

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

An Act To Further Restrict the Availability of Methamphetamine and Amphetamine Pills
H.P. 580 L.D. 773
(C "A" H-252)

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

An Act To Decrease the Tax Burden on Maine's Seniors
H.P. 601 L.D. 805
(C "A" H-165)

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

An Act To Define "Prosthetic Device" for Purposes of Sales Tax Law
H.P. 631 L.D. 834
(C "A" H-242)

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

An Act To Provide Administrative Support to the Citizen Trade Policy Commission
H.P. 716 L.D. 972
(C "A" H-249)

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

An Act To Support Resource Sharing among Maine Libraries
H.P. 767 L.D. 1033
(C "A" H-225)

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

An Act To Increase the Fee Paid to a Funeral Home To Transport a Body at the Request of the State Medical Examiner
H.P. 955 L.D. 1303
(C "A" H-239)

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

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:

Resolves

Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

S.P. 151 L.D. 518
(C "A" S-108)

Resolve, To Facilitate Participation in Individualized Education Program Team Meetings and Special Education Dispute Resolution Procedures

H.P. 517 L.D. 688
(C "A" H-189)

Resolve, To Enhance the Use of Integrated Pest Management on School Grounds

H.P. 634 L.D. 837
(C "A" H-213)

Resolve, To Convene a Task Force To Study Cost-effective Ways of Dealing with an Increased Population of Those Affected by Alzheimer's Disease

S.P. 263 L.D. 859

Resolve, Concerning Access to the Eastern Road in Scarborough
S.P. 367 L.D. 1246
(C "A" S-111)

Resolve, To Name the Main Street Bridge in Newport after Sergeant Donald Sidney Skidgel

H.P. 1136 L.D. 1549

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator SHERMAN for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, To Encourage Reciprocity between Maine and New Hampshire in the Reporting of Rabies Vaccinations by Veterinarians

S.P. 406 L.D. 1309

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-141)**.

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

READ ONCE.

Committee Amendment "A" (S-141) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator THIBODEAU for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Sanford Sewerage District"

S.P. 464 L.D. 1483

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-140)**.

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

READ ONCE.

Committee Amendment "A" (S-140) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator SAVIELLO for the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management"
S.P. 52 L.D. 159

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-139)**.

Report **READ**.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prevent HIV Transmission from a Pregnant Mother to a Child"

H.P. 532 L.D. 702

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

Signed:

Senators:

McCORMICK of Kennebec
CRAVEN of Androscoggin
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
FOSSEL of Alna
MALABY of Hancock
O'CONNOR of Berwick
PETERSON of Rumford
SANBORN of Gorham
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Signed:

Representative:
STUCKEY of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-283)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-283) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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:

Act

An Act To Prohibit Texting while Driving
S.P. 228 L.D. 736
(S "A" S-39)

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

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Enhance Enforcement of Fish and Game Laws By Authorizing Maine To Enter into an Interstate Wildlife Violator Compact"

H.P. 1112 L.D. 1509

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.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Ought to Pass As Amended

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Reduce Deer Predation"
H.P. 298 L.D. 372

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-311)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-311)**.

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

READ ONCE.

Committee Amendment "A" (H-311) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

ORDERS

Joint Order

On motion by Senator **FARNHAM** of Penobscot, the following Joint Order:

S.P. 510

ORDERED, the House concurring, that Bill, "Resolve, To Authorize the Exchange of Certain Lands Owned by the State," S.P. 341, L.D. 1132, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

READ and **PASSED.**

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

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 Allow the Town of Surry To Join School Union No. 93
S.P. 244 L.D. 800

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with 2 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.

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

Mandate

An Act To Make Minor Changes to Municipal Health Inspection Activities

H.P. 875 L.D. 1177
(C "A" H-238)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/19/11) Assigned matter:

SENATE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow the Repayment of Improperly Awarded Workers' Compensation Benefits"

S.P. 389 L.D. 1268

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-124)** (6 members)

Tabled - May 19, 2011, by Senator **SULLIVAN** of York

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

(In Senate, May 19, 2011, Reports **READ**.)

On motion by Senator **JACKSON** of Aroostook, 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 Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise to ask you to vote against the pending motion and move onto the Majority Report. I won't try to get anyone to believe that I'm a lawyer. I didn't sleep at a Red Roof Inn last night. I am concerned about the pending motion. This is something that would go into law that would actually be very detrimental to people that were injured at their place of employment. In the case where an injured worker had filed to get benefits and it had taken a long time for that awarding to happen, for a judgment to happen, it may be a year and a half or it may be two years. If a worker had a hearing officer that ruled in their favor and they received a lump sum of the back pay and what they were awarded, many times these people have been out of work and have had bills pile up and maybe have lost a vehicle or a home because they had no other income coming in during this time that they were injured. They go out and pay off all these back debts that are owed, maybe get caught back up. What this law would do is say that that if the insurance company files, and the law court decides that the hearing officer did something improper, they would be able to go back and recoup that money that they paid to that injured worker. I understand how an insurance company might have some claim to that, but at the same time these injured workers, through no fault of their own, had a hearing rendered on their behalf. When we asked about what exactly could the insurance company go after it was stated that they probably wouldn't go after someone's home, but they could. I have a hard time telling an insurance company that they can go back and recoup these payments from people that just don't have it or maybe the only thing they have is a house or land or something like that. It would be a real problem for me and would create a chilling effect for workers that were actually injured because they would never know if anytime they were awarded what they had coming to them if they couldn't have an insurance company try to get the ruling reversed and then they could go after anything that they had of monetary value. That's a real concern to me. We also asked how many cases here we were talking about. A while back, I think in 2002, there were ten cases that this law actually might have affected. I know after 2003 we actually made the requirements to become a hearing officer higher. We actually said that you had to have a law degree. There were some people who were practicing as Workers' Comp hearing officers that didn't have a law degree before that. We raised the standards of the hearing officers and I think that has been reflected in the fact that I think since the last four years there has only been one of these cases that the Workers' Comp Board could tell us for each previous year that this law would affect. I think that shows that the hearing officers are of a higher

quality and have a better understanding of the law. Honestly, because they made one mistake in a year and it's not even determined if those would be overturned, it's something that this law could possibly affect. I think that speaks for the value and integrity of the process. I think the Workers' Comp process some people would argue is bad. I would say that it is working fairly well. It's a lot better than what it was 15 or 20 years ago, or even 10 years ago. I believe nationally we're recognized as the state that is in the middle of the pack with our Workers' Comp rates. I'm very concerned about what this could do to some people that were injured and, through no fault of their own, had a hearing ruled in their favor and then years down the road an insurance company came in overturn that and go after whatever little bit that is left that they have. I would ask you to vote against the Minority Ought to Pass Report and move onto the Majority.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I would agree with my friend from Aroostook were it not for a portion of this law that I think was put in specifically to address his very legitimate concerns. That section says in Sub 1 that if this happens, if the law court overturns a decision of the hearing officer and the Commission after the fact, it gives the Board the opportunity to consider whether or not to seek the back money but does not require the Board to. Just the kind of cases the Senator from Aroostook was talking about are addressed here. The section says the Board has full jurisdiction to determine the amount of overpayment, if any, and the amount and schedule of repayment, if any. The Board, in determining whether or not repayment should be made and the extent and schedule of repayment, shall consider the financial situation of the employee and the employee's family and may not order repayment that would cause hardship or injustice. It seems to me that what would be a very unfair system is one in which a favorable hearing officer decision is made on behalf of the employee, an appeal is taken, and the law said, "You know what, since there is an appeal in place you're not going to get paid anything until the appeal is finally decided." That would be, I think we would all agree, a mean spirited system. This, I would suggest, is a reasonable compromise. It says if the hearing officer decides in your favor you will get paid, but if it is decided against you, depending on your financial circumstances, you may have to pay it back. I think that's a fair balancing of the interest of the employee and the employer. It depends, to a certain extent, on the goodwill and the humanity of the Board, but hopefully that will be in place. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. I think with respect to the last comment, it's important to understand that current law allows for repayment in the event that an appeal is filed. What this proposal does is extends those same repayment rights when Findings of Fact and Conclusions of Law are filed. When considering this it is important to understand what Findings of Fact and Conclusions of Law are. The way it works in the Workers' Comp system is after a decision is rendered a party can immediately file an appeal to the law court or they can do this intermediary step of seeking Findings of Fact and Conclusions of

Law. It is essentially a second bite of the apple. It delays the time in which you have to appeal. It allows you to get a clearer explanation from the hearing officer. It's a step in the process. If an insurer thinks that the decision is clearly erroneous they can skip that step and file an appeal immediately. Once they file that appeal they are eligible for repayment. What we are trying to do now is say, "Look, while you are sorting it out, or while you are taking a second bite at the apple, we're going to give you the same repayment rights." I would suggest that what this is going to do is drive up the cost of litigation for everybody because if you allow repayment upon a motion of Findings of Fact every employer and insurer with any sense will immediately file for a Findings of Fact and Conclusions of Law even if it is clearly laid out in the decision and they are planning to appeal it anyways. All you will do is add additional steps, additional burdens, and I think additional costs for insurers over time. As it has been pointed out by the Senator from Aroostook, it is very rare that decisions are overturned and that repayment would be ordered. In order to create this hypothetical possibility that you might have one or two in the state of Maine a year you are going to drive up the cost for everybody else because it is going to have to become standard practice to file those Findings of Fact and Conclusions of Law. Now, again, if you want the repayment rights, go straight to the appeal. File that appeal and you get them. All you are doing is adding one more layer to the puzzle and one more opportunity to rack up costs. Thank you, Mr. President.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, if I may ask a question through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **DILL:** Thank you Mr. President. My question is, in the event that the injured worker prevails and is given an award and a portion of that award is paid to an attorney for services rendered and then later on there is a second order to return the money, what happens to the money that has been paid to the attorney? I guess the second part of the question is, if the attorney has been paid is the injured worker responsible for paying the entire amount or just the amount that he or she has retained after paying his or her attorney?

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

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, I think there is a misapprehension here and that is that we are talking about someone who filed a claim as an injured worker, but is ultimately determined not to have been injured in an on the job injury where they would be entitled to Workers' Compensation. That is the issue at hand. It's important. I'm going to read again, and I did this the other day, to refresh your memories. Procedurally what happens in a typical case that is appealed is that a decision is rendered by the hearing officer. A party has the right to challenge the hearing officer's decision and they do so through a motion of Findings of Fact and Conclusions of Law. The hearing officer is given an opportunity to reconsider

his or her decision and issue a second decision after the filing of the motion. If either party is still dissatisfied with the Board decision they have a right to a discretionary appeal to the State Supreme Court. If the court accepts the case on appeal and reverses the hearing officer's decision the statute, in its present form, allows an employer and a carrier a right to recapture payments after the second decision is made by the Board, but not after the first decision. In some instances findings are issued quickly, that is within weeks, but in other instances months might pass. In fact, the fact that an employer and carrier can recapture some payments, but not the entire amount paid is inconsistent with the entire statutory scheme. This was testimony that was given to us. If a case is remanded by the State Supreme Court the Board has full jurisdiction to determine the amount of an overpayment. As the good Senator from Kennebec, Senator Katz, pointed out, they have the ability to determine the worker's ability to pay back any amount that they have been paid. They have full discretion. We were told by the Executive Director of the Board that it would be inconsistent with their policies to try and take someone's house or take their car or any of the other things. They would only be asked to repay what it is reasonable for them to repay. Bear in mind this is money that they received to which they were not entitled. They are not injured workers. They are people who filed claims but were determined not to be injured and entitled to a payment by the Workers' Comp system. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. I want to clarify here that it is not simply people who may not be entitled to benefits who could have their benefits recouped. Someone might be entitled to benefits, a hearing officer decides to give benefits of a certain amount and then there is a decision on whether that was appropriate and then it's reversed. You have an injured worker who has been entitled to benefits but maybe not quite as much. That's what you are extracting. This is not a case of folks somehow defrauding the system. These are people who went through a hearing process and were found to have legitimate injuries. Typically when you are talking about an appeal and that decision being overturned the question is not whether they have been injured, most of the time, but whether technical or legal defense would bar payment. This is not a matter of people simply going through the system and somehow magically tricking everybody and they are being ordered to repay. I also want to talk a little bit about the process again. While it is true that a lot of time could in theory lapse between an initial decision and a decision upon application of Findings of Fact and Conclusions of Law, there is nothing that requires you to take that second step. You can appeal immediately as soon as you get the decision. You do not need to ask for findings. That is a step that is giving the party a second bite at the apple. If they choose to take that second bite at the apple they lose their ability to recover during the interim period. It is a compromise to say that if you are going to delay this, if you are going to have one more shot, you give up your right to recover during that period. If you don't want to lose that right to recover just appeal it, file the appeal immediately. That is why I say that if this goes through there will be a ramp up in litigation because everybody is going to have to take that secondary step. They will no longer have to make the decision. They will get the second bite at the apple for free. Compromise

has been built into the statute. Let's respect that compromise and recognize that nobody is harmed by this because any insurer that feels like they have wrongfully paid can immediately take their appeal. They don't need to offer that second bite at the apple. 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, just two quick points. I would think it would be awfully unusual, hard, or impossible for a case to go all the way to the Maine State Supreme Court without the worker having some injury. I'm sure there are a number of things that could have happened along the way that an insurance company might be protesting, but I don't believe that there would be any case that the worker had lied all the way through and never had some injury for it to go all the way to the Supreme Court. I don't even believe the Supreme Court would take it. That's just my own personal opinion. Secondly, the Executive Director did say that it would be highly unlikely or unusual that someone could lose their home, I do remember asking, but they could. I think that's the problem. This Executive Director, this Workers' Comp Board, may not be willing to take someone's home for repayment but there is nothing to say that anyone in the future wouldn't. The law certainly doesn't say that they can't take your home. If we feel comfortable going on someone's testimony that it would be unlikely then I guess that's where we are.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#92)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **RECTOR** of Knox to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-124) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Chair laid before the Senate the following Tabled and Later (5/19/11) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Requirements for Publishing Municipal Legal Notices" H.P. 318 L.D. 392

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

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

Tabled - May 19, 2011, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **THOMAS** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, May 18, 2011, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 19, 2011, Reports **READ**.)

On motion by Senator **THOMAS** of Somerset, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in concurrence.

READ ONCE.

Senator **HOBBS** of York moved the Senate **RECONSIDER** whereby it **ACCEPTED** the Majority **OUGHT TO PASS** Report, in concurrence.

Senate at Ease.

Senate called to order by the President.

Senator **HOBBS** of York requested and received leave of the Senate to withdraw his motion to **RECONSIDER** whereby the Senate **ACCEPTED** the Majority **OUGHT TO PASS** Report, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME.**

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-145) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, what this amendment does is takes the electronic media portion of the bill out of Section 2. There will be no more electronic media part of this bill. Under current law

municipalities are required to advertise their public notices in newspapers of general circulation that are mailed second class. Those are the state's largest newspapers and in some of our smaller towns that is just not getting the job done. People don't know when they have special town meetings. They don't know when they are having these meetings that they need to know. This law would allow the towns to publish in a newspaper distributed by third class mail under two conditions. One condition would be that the newspaper has to be mailed to every resident of the municipality, and this bill only covers municipalities so there is nothing to do with the State, and the town has to adopt a publication policy and then they must retain a record of all those notices. What it really does is allows towns to publish their legal notices once where a lot of towns have to publish them twice now in order for the public to know because the larger newspapers just aren't getting the circulation that they used to get. This is a way for towns to better notify their constituents, their citizens, and save money at the same time. Thank you.

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

Senator **SULLIVAN:** Thank you Mr. President. A question for the Chair. If I had wanted to speak on the original bill am I now not allowed to speak on that bill?

THE PRESIDENT: The Chair would advise that after this amendment has been dispensed with debate would be in order on the bill either as amended or the underlying bill, depending on the Senate's next action. The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. May I follow up on that then? If the amendment is accepted then there would be no debate on the original bill?

THE PRESIDENT: That is correct. The bill would now be amended and debate would be on the amended version of the bill.

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-145) **ADOPTED**.

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

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I'm going to ask you to reject this in its entirety for a number of reasons. First, we have already voted on one bill as far as the State was concerned which the newspaper had agreed on and has saved \$200,000 for the State. We will no longer do notices of change of rules. That will be just a direct going through. I know some people disagree with that, but we agreed to keep just the public hearings and any rules that have been changed will go into a site that will be put in to go and visit on the internet. That's number one. Number two, I happen to have 408 square feet for a camp that we love but I have to make sure I love my husband at the same time that we are there. It's in Hartford,

Maine. Hartford, Maine sends out a newsletter to everybody who is a property owner. It comes actually first class and it gives all the good things about living in a small community. Tells when is trash pick up and if it has recycling that week and when the dump open and all those good things. It also does all the municipalities. It is mailed to everybody. However, in this last issue that came over the weekend, it said that they are no longer going to be able to offer this because they have no one to write the newsletter any longer. They are retiring. It's not a paid job, it's a volunteer. What happens in that case if this municipality has decided to send this form of notice? Third class is one that comes to you postal patron? I would question how many people actually read postal patron? We have one in my community. They come in little plastic bags on a Thursday night and are thrown on the driveway or whatever. By Saturday they are all still there or many of them are still there. I would ask you to really think carefully about this. Let the municipality follow the rules so that whether you live in Cape Elizabeth or you live in Lubec or you live in Timbuktu, it's the same thing. They need to notify you. If they want to keep up in the little newsletter that is a little more quaint, fine. Let this go and make sure that no matter where you live you have the same opportunity. Thank you, Mr. President.

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

Senator **HOBBS:** Thank you Mr. President. Men and women of the Senate, this particular bill on its face looks like one of those bills that, considering the economic hardships that our state is facing, you could say would save a few dollars. The issue is more than saving a few dollars because, quite frankly, the budgetary process that the Appropriations Committee has been toiling with for the past five months has been very wrenching and heartbreaking to many individuals. This goes to a different cornerstone than a social service program or other needy social services and other public policy issues that have been decided by this legislature. This goes to the basic fiber of our whole society as one that needs to be an open and transparent process. I was fortunate for five and a half years to sever as the first Chair of the Right to Know Advisory Committee. As many of you know who have gone through the process of your committees of jurisdiction, it is very important that we have an open process with respect to our government. The Right to Know Law in Maine was the first one in the country to pass. Maine is known to have an open and transparent process in our government. All bills have to go through a review process, not only by the committees of jurisdiction but also by the Judiciary Committee, to make sure that the exceptions to what information can be withheld from the public has to be for extraordinary reasons. Unfortunately, bills such as this, although you can argue it could save a few dollars, it's not really a few dollars, it's a lot of money compared to what it could be, is an example of how to restrict and constrict the flow of information and to let the voters of Maine and the people of Maine maybe miss a very important issue that is involved with the municipal level of government, State government, or whatever level of government. I hope before you decide on this bill in order to make one of those difficult decisions about cutting programs and the like let's not go through the process where we are cutting away the basic premises of our democracy, and that is making government open and transparent. Two and a half months ago I sponsored a Resolve that passed that basically celebrated Sunshine Week. The principles that were involved with that

particular Resolution are really part of the cornerstones of why we are a free society. This particular bill, although it seems to be harmless, breaks away from those cornerstones that I think have made the United States the democracy it is. I would hope that you will think long and hard about taking this particular step. Even though it doesn't sound like a significant one, it is taking away and chipping away at one of our cornerstones, and that is an open government. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, first of all let me state again that this bill has nothing at all to do with State public notices, legal notices. This is about municipal legal notices. There are two more bills coming later that will deal with State municipal notices. We've had discussions in our committee and even the newspapers that publish these legal notices will admit that we are not doing a good job of informing the public. We need to do a better job. We need to let people know when there are legal issues coming up in our towns and State government. They need the opportunity to know so they can attend. This bill does nothing to prohibit a municipality from using the existing process. What this does is gives local officials one more option so that they can, in fact, inform people. The way the law reads now you have to publish these legal notices in these big papers that so many people just aren't reading. We all have seen the circulation numbers. They are dropping like a rock. They are put in the classified section under legal notices and they are so hard to find and very few people read them. This is going to do a better job. I would agree with previous speakers who say that a cornerstone of our democracy is keeping people informed. It absolutely is. We need to do a better job and this bill allows that. Thank you.

THE PRESIDENT: The pending question before the Senate is Passage to be Engrossed as Amended. 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 (#93)

YEAS: Senators: COLLINS, COURTNEY, MARTIN, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TRAHAN, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, **PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-145), in NON-CONCURRENCE, FAILED.**

Sent down for concurrence.

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

Bill "An Act To Amend the Laws Governing County Jail Budgeting for York County" (EMERGENCY)

H.P. 70 L.D. 82

Tabled - May 23, 2011, by Senator **HOBBS** of York

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-289)**, in concurrence

(In House, May 23, 2011, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-289)**.)

(In Senate, May 23, 2011, Report **READ** and **ACCEPTED**, in concurrence. **READ ONCE**. Committee Amendment "A" (H-289) **READ**.)

Committee Amendment "A" (H-289) **ADOPTED**, in concurrence.

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

Senator **DIAMOND:** Thank you Mr. President. I wanted to pose a question through the Chair regarding L.D. 82 at the appropriate time.

THE PRESIDENT: The Senator may pose his question.

Senator **DIAMOND:** Thank you Mr. President. There is fiscal information that goes with this bill and first off I will back up a bit. This has to do with the jail consolidation that was passed in previous legislatures. The consolidation has been going along pretty well. This particular bill has a fiscal note to it, I believe, and I'm trying to make sure. Just looking at it quickly this afternoon, it looks like it is \$280,000 for the first year but that looks like that same \$280,433 extends on and on and on every single year. My question, Mr. President, is could somebody explain the fiscal note and does it in fact go on for every year following?

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, this bill is very similar to one that was passed last year and it died on the Appropriations Table. With this bill, when the figures were created for the base figures under the jail consolidation York County did not put the lease for the HBAC when they built the jail into that calculation. This just acknowledges that and treats it so it has the same base that every other jail in this state, which would include the HBAC.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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

HOUSE REPORTS - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property"

H.P. 207 L.D. 254

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-160)** (11 members)

Minority - **Ought Not To Pass** (2 members)

Tabled - May 23, 2011, by Senator **TRAHAN** of Lincoln

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

(In House, May 19, 2011, 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-160)**.)

(In Senate, May 23, 2011, Reports **READ**.)

Senator **BARTLETT** of Cumberland requested a Roll Call.

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

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Requested)

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Governing the Maine Health Data Organization Relating to Retail Pharmacies"

S.P. 164 L.D. 572

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-138)** (4 members)

Tabled - May 23, 2011, by Senator **McCORMICK** of Kennebec

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

(In Senate, May 23, 2011, Reports **READ**.)

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I stand in opposition to the Minority Report. The Maine Health Data Organization was established by the Maine legislature in 1996 as an independent executive agency to collect clinical and financial health care information and to exercise responsible stewardship in making this information accessible to public Maine Health Data policy. It is established by a 21 member board that represents health care providers, payers, and consumers. What this bill would do is exclude pharmacies from paying into or reporting to the health data system. I think that there are two problems with this; one is that pharmacies are a very large part of our health care system in this state or anywhere. I think that in order to have a fully functional data base we need to have their input. It would also cause a very large burden on other providers that are required to pay to fund the data base. I would ask that you reject this measure and vote for the Majority Ought Not to Pass. Thank you, Mr. President.

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

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

Senator **McCORMICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, it is true. What this bill will do is remove retail pharmacies from the list of entities that fund this Maine Health Data Organization. The Maine Health Data Organization has had since 1996 to develop this data base and set up users of that data base. If the data base is that valuable to the users then they should be more than willing to pay the fees necessary to collect and maintain this data. Entities that do not contribute directly to the data base or derive any benefit from the data collected should not be required to pay an annual fee and that is the issue. The pharmacies do not contribute their data directly to the data base. It's collected through the PBMs and through the carriers. They do not contribute directly and do not receive any benefit. Historically there has been money left over in this fund annually. It's a \$58,000 fiscal note. I encourage you to support the Minority Report. Thank you, Mr. President.

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

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, the taxpayers of Maine pay an enormous amount of money to the retail pharmacies to purchase medications for the people of Maine. I think that it behooves them to be part of the Maine Health Data Organization and that it's a very valuable system for actuaries and other people who need this information to make sure that we have affordable health care in Maine. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#94)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JACKSON, ROSEN, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: PATRICK

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

READ ONCE.

Committee Amendment "A" (S-138) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (5/19/11) Assigned matter:

An Act Regarding Retention and Graduation Rates for Maine's Colleges and Universities

S.P. 156 L.D. 564
(C "A" S-74)

Tabled - May 19, 2011, by Senator **ALFOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-74).**)

(In House, May 18, 2011, **PASSED TO BE ENACTED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-74).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-74).

On further motion by same Senator, Senate Amendment "A" (S-144) to Committee Amendment "A" (S-74) **READ.**

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, this will be very brief. What this amendment does is further clarifies what our colleges and universities have to do with their retention rates and graduation rates. Currently every college and university in the state, both public and private, non-profit and for profit, put all their information into an organization called IPEDS. What the Department of Education will do is take that information from IPEDS and put this on-line so that students and parents, guidance counselors, and others can look at all of our colleges and universities and see their graduation rates and see their retention rates. Thank you, Mr. President.

On motion by Senator **ALFOND** of Cumberland, Senate Amendment "A" (S-144) to Committee Amendment "A" (S-74) **ADOPTED.**

Committee Amendment "A" (S-74) as Amended by Senate Amendment "A" (S-144) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-74) AS AMENDED BY SENATE AMENDMENT "A" (S-144) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

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

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Tuesday, May 24, 2011, at 10:00 in the morning.