

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

In Senate Chamber
Monday
June 17, 2013

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

Prayer by Senator Emily Ann Cain of Penobscot County.

SENATOR CAIN: Good morning. Thank you. Let us pray. Dear God, as we do our work as stewards and leaders of Maine, give us the qualities and characteristics that make our state special and make our state great. Bless us with the energy of the rivers, the vision of the sunrise, the strength of the forests, the dedication of the farmers and fishermen, the depth of the ocean, the calm of the lakes, the height of Katahdin, and most of all bless us with the hearts and the minds of Maine people, for they are our greatest resource of all. Amen.

Pledge of Allegiance led by Senator Gary E. Plummer of Cumberland County.

Reading of the Journal of Friday, June 14, 2013.

Doctor of the day, Representative Jane Pringle, MD of Windham.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Promote Tourism and Foster Economic Development" (EMERGENCY)

H.P. 1005 L.D. 1409

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-401)** (9 members)

Minority - **Ought Not to Pass** (4 members)

In House, June 10, 2013, 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-401)**.

In Senate, June 12, 2013, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **RECEDED** from **PASSAGE TO BE ENGROSSED AS AMENDED**. House Amendment "A" (H-504) **READ** and **ADOPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-401) AND HOUSE AMENDMENT "A" (H-504)**, in **NON-CONCURRENCE**.

Senator **GOODALL** of Sagadahoc moved the Senate **RECEDE** and **CONCUR**.

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 (#286)

YEAS: Senators: BOYLE, BURNS, CAIN, CUSHING, DUTREMBLE, GERZOFISKY, JOHNSON, LACHOWICZ, LANGLEY, MAZUREK, MILLETT, PATRICK, SAVIELLO, TUTTLE, VALENTINO, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: CLEVELAND, COLLINS, CRAVEN, FLOOD, GOODALL, GRATWICK, HAMPER, HASKELL, JACKSON, KATZ, MASON, PLUMMER, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, YOUNGBLOOD

ABSENT: Senator: HILL

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GOODALL** of Sagadahoc to Senate **RECEDE** and **CONCUR**, **FAILED**.

On motion by Senator **GOODALL** of Sagadahoc, the Senate **INSISTED**.

COMMUNICATIONS

The Following Communication: H.C. 205

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

June 14, 2013

Honorable Darek M. Grant
Secretary of the Senate
126th Maine Legislature
Augusta, Maine 04333

Dear Secretary Grant:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Protect Maine Communities by Prohibiting Horse Slaughter for Human Consumption and the Transport of Horses for Slaughter" (H.P. 913)(L.D. 1286).

Representative Elizabeth E. Dickerson of Rockland
Representative Lisa Renee Villa of Harrison
Representative L. Gary Knight of Livermore Falls

Sincerely,

S/Millicent M. MacFarland
Clerk of the House

READ and ORDERED PLACED ON FILE.

ORDERS

Joint Order

Expression of Legislative Sentiment recognizing:

Nathan Philbrick, of Sidney, who saved the life of a boy who was choking by performing the Heimlich maneuver on him. Mr. Philbrick, a farmer who also drives a school bus, noticed the boy in distress through his mirror, and rushed to save the boy. We send him our appreciation for his heroic action and congratulate him on his lifesaving skills;

SLS 496

Sponsored by Senator KATZ of Kennebec.
Cosponsored by Representative: NUTTING of Oakland.

READ.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, Tuesday, April 30th, began as a normal day in Sidney, Maine, with a school bus on the way to the James Bean School. On that particular day 35 kids were in the care of Nathan Philbrick, as they were every day as he drove that bus to school. As they went on their journey a very special girl, who is with us today, Abby Whitcomb, saw that one of her classmates was choking. Instead of panicking, Abby had the wherewithal and the presence of mind to go alert the bus driver, Mr. Philbrick, that there was a problem. Nathan Philbrick, who thought his day was going to be pretty ordinary too, was able to recall the several times that he had been given training on the Heimlich maneuver and went back to this little boy who was choking and was able to

dislodge what was in his throat and, essentially, saved this little boy's life. I don't what that boy's name is, but I'm sure he bears a debt of gratitude both to Abby Whitcomb, for having the presence of mind to alert the bus driver, and certainly to Nathan Philbrick, who did it. This sentiment, Mr. President, memorializes the good feelings of the Senate for Mr. Philbrick. We're also pleased to have him here and many of his family members, as well as Lennie Goff, who is his boss. I might suggest, Mr. Philbrick, this might be a good time to ask for a raise. Also Abby Whitcomb is here with her family. I know that my colleagues in the Senate join me in congratulating them for this extraordinary feat which occurred back then which saved the little boy's life. Thank you, Mr. President.

PASSED.

Sent down for concurrence.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Nathan Philbrick of Sidney. Nathan is joined today by his wife, Angela, and his two sons, Blake and Brady. Also in the rear of the chamber is Abby Whitcomb, a sixth grader at Maranacook Community Middle School. Abby is accompanied today by her parents, Mindy and John Whitcomb; sister, Olivia; grandmothers, Nancy Butler and Glenys Michaud; Aunt, Corene Richardson; and cousin, Grady. They are all here as the guests today of the Senator from Kennebec, Senator Katz. Will they all please stand and accept the greetings of the Maine State Senate.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Clarify Transparency of Medical Provider Profiling Programs Used by Insurance Companies and Other Providers of Health Insurance"

H.P. 704 L.D. 1006

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-502).**

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-502).**

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

READ ONCE.

Committee Amendment "A" (H-502) **READ and ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Enable the Town of Livermore Falls To Withdraw from Androscoggin County and Join Franklin County"
H.P. 25 L.D. 27

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-503)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-503)**.

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

READ ONCE.

Committee Amendment "A" (H-503) **READ** and **ADOPTED**, in concurrence.

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-494)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-494) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Directing the Department of Health and Human Services To Amend Its Rules of Reimbursement under the MaineCare Program for Audiology and Speech-language Pathology Services

H.P. 832 L.D. 1188

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-494)**.

Signed:

Senator:
HAMPER of Oxford

Representatives:
CASSIDY of Lubec
DORNEY of Norridgewock
MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough
STUCKEY of Portland

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

Signed:

Senators:
CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
GATTINE of Westbrook

Senate

Ought to Pass As Amended

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create an Educational Collaborative To Implement a Program That Enables Career and Technical Education Students To Earn College Credits while Attending High School" (EMERGENCY)

S.P. 506 L.D. 1412

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-286)**.

Report **READ**.

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.

On motion by Senator **JACKSON** of Aroostook, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF THE REPORT**. (Roll Call Ordered)

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Municipal General Assistance"

S.P. 313 L.D. 892

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

Signed:

Senators:
CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PRINGLE of Windham
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-288).**

Signed:

Senator:
HAMPER of Oxford

Representatives:
MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

(Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought Not To Pass** Report.)

Reports **READ.**

Senator **CRAVEN** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** 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 NOT TO PASS** Report.

Senate at Ease.

Senate called to order by the President.

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Update the Polygraph Examiner Licensing Laws"
S.P. 480 L.D. 1373

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

Signed:

Senators:
PATRICK of Oxford
CLEVELAND of Androscoggin

Representatives:
HERBIG of Belfast
CAMPBELL of Newfield
DUPREY of Hampden
GILBERT of Jay
HAMANN of South Portland
LOCKMAN of Amherst
MASON of Topsham
MASTRACCIO of Sanford
VOLK of Scarborough
WINCHENBACH of Waldoboro

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

Signed:

Senator:
CUSHING of Penobscot

Reports **READ.**

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

READ ONCE.

Committee Amendment "A" (S-287) **READ.**

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-290) to Committee Amendment "A" (S-287) **READ.**

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, this was a 12-1 report, An Act to Update the Polygraph Examiner Licensing Laws. The amendment actually makes it a unanimous report. The descending member came up with an amendment that we could all buy on to and I'm really appreciative of that effort because we had run out of time in committee and this makes it a unanimous report. Thank you.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, as the descending vote on this, I am very pleased and thankful to the good Senator from Oxford for his willingness to present this to the Body and I think this will solve an issue that was of great concern to me, and I think some others, as we move forward. Thank you for the opportunity to address this.

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-290) to Committee Amendment "A" (S-287) **ADOPTED.**

Committee Amendment "A" (S-287) as Amended by Senate Amendment "A" (S-290) thereto, **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-287) AS AMENDED BY SENATE AMENDMENT "A" (S-290)** thereto.

Ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

SENATE REPORT - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create an Educational Collaborative To Implement a Program That Enables Career and Technical Education Students To Earn College Credits while Attending High School" (EMERGENCY)

S.P. 506 L.D. 1412

Report - **Ought to Pass as Amended by Committee Amendment "A" (S-286)**

Tabled - June 17, 2013, by Senator **JACKSON** of Aroostook

Pending - **ACCEPTANCE OF REPORT** (Roll Call Ordered)

(In Senate, June 17, 2013, Report **READ**.)

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I'd just like to stand up and just talk a little bit about this bill. It's come through unanimous out of committee and will likely go under the hammer, but I'd like to just draw your attention to it for a couple of minutes. It's other name that we've had around here is the Bridge Year. The catalyst of this, it came in the 125th Legislature, was when the current Chief Executive had been campaigning on this idea of a fifth year of high school. During the 125th, as the Chair of the Education Committee, I brought in a number of CTE directors to do a briefing in front of the Education Committee regarding Career Technical Education in the state. At the end of that I was speaking to them in the back of the room and telling them a passion of mine was this idea of a transition between high school and college. These folks had said to me, "We've been kicking this around the water cooler for a number of years. Let's go with it." This was the start of the Bridge Year pilot program, which was a collaborative between United Technologies, Hermon High School, Eastern Maine Community College, and the University of Maine, where everybody brought their A-game to the table to create a program. In essence, the pilot currently has about 15 Hermon High School kids who take courses in the morning at their high school and those courses are vetted college courses vetted through the University of Maine in science and math and social studies and history and etcetera. Then they get on the bus in the afternoon and they are over at United Technologies Center, where they study things like culinary arts, nursing, building construction, and mechanical trades. At the end of their two years in high school they'll have roughly 30 college credits. They will have a trade

under their belt, two years' worth. They'll have a lot of job shadowing experiences. They'll head off into life having paid \$35 a credit hour for those 30 credits, roughly one year of college paid for. In this budget, currently, it is a line item in here to scale this up. Our goal is to have ten of these collaborates around the state with about 2,000 high students participating in this. To me, it's a signature piece of legislation that came out of the 125th Legislature and I'm just really glad for all of your help. Thank you very much.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, having served on the Special Select Work Force Development Committee, whose mission it was to try to figure out ways to do more with less and increase the number of degrees that our post-secondary students are getting, this bill here, this effort, could be poster child for that effort. No one bill is the product of just one person. I'd just like to commend my colleague, Senator Langley, for his singular effort over the last two legislatures and getting this incredibly good piece of legislation first in a pilot project and now on a statewide basis. I'll commend him for that. Many Maine students will benefit from his work. Thank you, Mr. President.

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

Senator **CAIN:** Thank you Mr. President. Men and women of the Senate, I'd like to add my praise for this program to the debate today, to the conversation and hopefully not a debate. The Bridge Year program is the result of a lot of vision from a lot of people, not just public officials but educational leaders at the K-12 level, at the higher education level, and at the business level, saying that we've got to think outside of the box about how to get kids over that hump from high school into college. We needed to do it in a place where we meet them where they are at in order to get them where we need them to be, as a state, in the way of what they are learning and what they can contribute to our economy. It gives me great pride to see this legislation coming through today and also to know that in the budget document that has come before us also includes the funding to support this program, to make sure it can actually become more of a statewide program, rather than just localized in the Bangor area. It's good work on the part of many and, again, I have great pride to see this coming through today. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Acceptance of the 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 (#287)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, the **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-286)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-286) **READ** and **ADOPTED**.

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

Sent down for concurrence.

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

The Chair laid before the Senate the following Tabled and Later Assigned (6/14/13) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Connect the Citizens of the State to the State's Natural Resources by Establishing Standards for Relief from Regulatory Burdens"

S.P. 532 L.D. 1450

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-280)** (4 members)

Tabled - June 14, 2013, by Senator **TUTTLE** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, June 14, 2013, Reports **READ**.)

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

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, I rise today to urge you to support the Majority, 9-4,

Report Ought Not to Pass. L.D. 1450 would allow a property owner to seek damages for an alleged reduction in property value of 50% or more which is caused by a new law, regulation, or government action. This bill will have very difficult legal, financial, and logistic issues for the bill. The law is certain to increase litigation, to burden the courts, and cast a cloud of uncertainty over future actions of the Legislature and State agencies because of unclear processes and problematic exemptions. A new mandatory mediation program would be established in which the State would be required to identify all land uses allowable on a property, shifting to the agencies the burden of proposing activities and then analyzing them. The bill also requires the Attorney General's Office to have an annual report of regulations in which any commenter has suggested that an issue is taking place. L.D. 1450 is similar in many respects to last year's regulatory taking bill at which time Attorney General William Schneider also expressed his concerns. A regulatory taking, as defined in the bill, is anything that is a burden caused by regulation imposed on a property owner's use of the property owner's real property, resulting in a lesser than fair market value of 50% or greater. Under established case law a regulation generally does not result in a taking unless it deprives the property owner of all the beneficial use of the property. This bill could result in significant litigation against the State. Also L.D. 1450 does not require the property owner to apply for a permit before making a claim. The bill provides that if a regulation clearly and unequivocally in its terms acts as a 50% diminishment in the value of the property a property owner need not apply for approval of the proposed use claimed to be restricted. A takings claim would then go straight to mediation without any analysis by the State and the use of the land owner claims is restricted. For those property owners who would be required to seek approval from the agency the bill makes the State's findings inadmissible in mediation. This handicaps the State as it engages in the mediation process as it cannot later use its analysis of the proposed project.

The bill also contains exemptions that would be the focus of the litigation. Three of the most likely exemptions that would be problematic are, first, the bill exempts regulations that are required to be adopted to comply with federal law. This would also create ambiguity on federal law versus state law. They also have the perspective application exception which would be fertile ground for litigation. For example, maps of aquifers, significant wildlife habitat, or other resources are periodically updated due to improved information regarding what is present in the area. Under this bill, a land owner could argue that, even though the regulation had not changed, updates to the maps are essentially enactments of a regulation subsequent to the effective date of this regulatory takings bill. This bill exempts municipalities from liability for a regulatory taking if the municipal regulation was required to be enacted by the State unless the municipality states that it endorses the regulation. If the municipality wants to go along with the regulation of the State then they would open up themselves to a law suit as well as the State. It is also very unclear on what would constitute a municipality from endorsing a regulation. Because of the problems in this bill and the other bills that have been submitted over the years, I urge you Ought Not to Pass on this bill. Thank you.

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

Senator **COLLINS**: Thank you Mr. President. Ladies and gentlemen of the Senate, it seems as though for a number of sessions I've been privileged to serve in the Maine Legislation, going on 11 years now, that there are bills that keep coming back and coming back. Some of us may say, "That's back again." Some may say, "Thank God that's back again because I really liked that language in that bill. I think it addresses a lot of concerns that people have across this great state of Maine." This bill, L.D. 1450, is such a bill. It was before us in different forms, particularly in the last term, that being the 125th Maine Legislature. It keeps coming back because of the constituents in my district, and I'm sure in your districts as well even though they are all unique upon themselves. Nevertheless, I keep hearing these comments. I get the phone calls, the e-mails, from folks who feel as though they have not been treated fairly by the State of Maine when they impose a new land use regulation that, in their opinion, reduces the value of their property. What this bill, L.D. 1450, attempts to do is to put up a grievance panel to review such claims, to give the opportunity to our constituency across this great state of Maine, to try to address their concerns about losing the value of their property. This may not be a terrifically important thing to some people who own a simple house or house lot that's probably three acres or so, but for large property owners, such as in my district in the town of Newfield and Shapleigh and Limerick and those very large property owners, farmers essentially, that feel as though they have not been treated properly and they have lost the value of their property.

I'll get back to my original statement in dealing with L.D. 1450 before the Body today about the ramifications of L.D. 1450. Mr. President, before I end my testimony before the Body, I would like to make a motion to put this bill and all its accompanying papers on the Special Study Table for further review. I think what we could try to attempt to do is to find common ground between the concerns of the Attorney General's Office and the concerns of the constituents in our Senate districts across the state of Maine and to come up with language, something that would be agreeable to all parties concerned. I'd be happy to serve on that Special Study Committee, as I have been heavily involved in this conflict here in the state of Maine for a number of years now, and perhaps a representative from the Attorney General's Office as well. I'll conclude my statements and say to you here this morning that when you hear these concerns from my constituents you've got to listen to them and try to come up with some kind of agreement, a meeting of the minds, so to speak, to come up with a plan that will work for all parties concerned. Mr. President, thank you for your time.

Senator **COLLINS** of York moved the Bill and accompanying papers be placed on the **SPECIAL STUDY TABLE**, pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Senator **GOODALL** of Sagadahoc posed a parliamentary inquiry as to whether Senator **COLLINS** of York had moved to place the Bill and accompanying papers on the **SPECIAL STUDY TABLE** pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The Chair confirmed with Senator **COLLINS** of York that he moved to place the Bill and accompanying papers on the **SPECIAL STUDY TABLE** pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Senate at Ease.

Senate called to order by the President.

The Chair **RULED** the motion by Senator **COLLINS** of York to place the Bill and accompanying papers on the **SPECIAL STUDY TABLE** pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report was **OUT OF ORDER**.

Senator **COLLINS** of York moved the Bill and accompanying papers be placed on the **SPECIAL STUDY TABLE** pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On motion by Senator **GOODALL** of Sagadahoc, 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 (#288)

YEAS: Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, HILL, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, WHITTEMORE, YOUNGBLOOD

NAYS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GOODALL, GRATWICK, HASKELL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **COLLINS** of York to place the Bill and accompanying papers on the **SPECIAL STUDY TABLE** pending the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **FAILED**.

The pending question before the Senate is the motion by the Senator from York, Senator Tuttle to 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 Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the Majority Report and I ask your consideration of what this means to the citizens of Maine. I want to thank the Judiciary Committee for their good work. Unfortunately I cannot agree with the direction we're headed now because I feel, having worked on this issue last session and having had considerable discussion with people who have, indeed, had challenges with the interpretation of certain regulations and the effect on their property, that we, in Maine, do not have an obligation, as elected officials, to consider the impact that we have on citizen's property. The mediation process that is offered will provide a vehicle by which those who feel their property is effected by ongoing changes made to policy by this Body and the Legislature, as a whole, would have some source of relief. Currently it is my understanding, Mr. President, that in order to do this you would have to seek relief through the court system. Most attorneys have looked to the Supreme Court decision which indicates that if you can hold a picnic or park a trailer on your property than you have not lost the value of that property. I ask you to consider what that means to people who may be looking at family property that has been in their ownership for generations and the impact when they cannot have a family member build a home on a piece of that property or to be able to till that property and use it for agricultural purposes. I think, Mr. President, that we need to focus on the fact that this is what the Legislature would be doing ongoing. It would not give relief to those people who feel they are wronged by previous legislation, but it would force us, when we place policy before our colleagues, to consider, to recognize, that we have a responsibility to what we do to impact people. L.D. 1450 reminds me of that great line in the movie that recently came out where Russell Crowe played the hero, the legendary Robin Hood. He spoke the words in the movie that, "Every Englishman's home is his castle." I think we need to recognize that homeownership and property ownership is treasured by people above many other things and we need to reflect on what we do to them when we take away their rights. 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 probably should have rose on the previous motion, but this issue was studied in the 125th. I believe Senator Thibodeau and Senator Cushing were both Chairs of that committee and I was on. While there probably is, or there definitely may be, an issue with what we're talking about here today, I think the difference is that I believe that if it comes to pass, that a court rules that there was a taking, I think that the State should have some fund to make people whole. What I don't agree with is that if there is a taking that people shouldn't have to follow laws that are in place for everyone else. I'm afraid that this bill is going to grant a waiver or variance or just let people that have better funding have the State rule that they don't have to follow the rules that everyone else does. I certainly understand that if people lose valuation than maybe they should be made whole, but until we start creating a fund to do that I don't know

that I'm in favor of the law the bill the way it currently is written. Thank you very much.

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

Senator **TUTTLE:** Thank you Mr. President. Members of the Senate, I hope that you would support the good Senator from York, Senator Valentino. We had much discussion on this issue. I have received a number of calls from constituents on the Takings Bill. As you are aware, I did support the motion for the Special Appropriations Table, but I think that the bill, in its present form, I would urge you to support the pending motion. As has been mentioned, this bill was similar to legislation that has been considered many times in this Legislature, I think, over the last 20 years. This bill has consistently been defeated, but I think there are many good reasons to have the bill here, but I think in its present form, unfortunately, I could not support it. I think a bill like this probably will result in thousands of compensation claims against the State, demanding millions of dollars in payments from Maine taxpayers, creating a cascade of lawsuits and undermining Maine's ability to adopt future laws needed to protect the interests of all Maine citizens. The Maine Attorney General's Office and a majority of people testifying at the hearing urged Ought Not to Pass on L.D. 1450 because it would increase litigation, create a new burden in the courts, and cause a cloud of uncertainty over future actions of the Legislature and State agencies. As I mentioned before, the testimony that we received overwhelmingly was opposed of the bill. For that reason I would ask you to support the motion of Ought Not to Pass. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm going to tell you about what happened to my family, not that I expect my family to get any special relief, but because there are thousands and thousands of people in Maine who have seen the value of their property taken away. Forty years ago my parents bought a farm. That farm went down to what we call Maine Stream. There is a pond there that's about a mile and a half to two miles long. At the head of that pond there is a piece of land that was included in that property that my parents bought. It's a gravel bank that had washed up there and it's probably 20 feet higher than the stream. You look down through the pine trees and you can look up across that pond to the east and it's really a pretty sight. I've heard that there are more migratory birds that come to that little pond than almost any other body of water in Maine. I'd like to have a camp there. I purchased the property from my folks. When my folks bought that property they could have done anything they wanted. They could have built a pond. They could have built a road. They could have done anything they wanted to. I can't do anything. I've had the DEP down there and we've walked it and we've looked it over. I can have a picnic on the property, so the value of the property hasn't been taken completely. My parents, nor I, are entitled any kind of compensation. How many people are there across Maine who have seen the value of their property taken a little at a time until there is no practical value left to that property? Think about for a second what that does to our economy. Think about people who could sell property, who could

mortgage property, who could do things with property that would give them some capital to invest in themselves to get an education, to invest in their business and employ people. Think about the millions and billions, probably, of dollars that have been taken away by regulations, with no concern with the property owner. It hurts our economy, and hurts it drastically. Are all of these regulations necessary? It gives people a free ride in this Body to regulate property and to take the value of that property away and take the use of that property away with no consequence. If we're going to take property for public use the public should be willing to pay for it. If they are not then we should leave it in its rightful owner's hands. It would be a great tool for our economy because people would see the full value of that property. We need to start thinking about that when we write these regulations. I urge you to defeat the current motion and let's go onto a sensible policy for property. Thank you.

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

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I apologize for rising again, but this is an important issue. I spent a considerable amount of time researching this in the last session and also in talking to individuals who had been affected. The key point that I found, as you consider what other states have done with regulatory taking, is that we recognized that in the study. The good Senator from Aroostook was part of that and he was very supportive of many of the key components that we came out with and I appreciate the input and the support that he gave us in that process. The thing that was clear to us is we did not want to make the mistakes that happened in Oregon where they passed a citizen referendum, Measure 37, that resulted in thousands of lawsuits being filed and millions and millions, tens of millions, of dollars' worth of liability claims being passed. That was a citizen referendum. This issue was so important to the voters of Oregon that they took it upon themselves to put it on the ballot. We have an opportunity, as legislators, to debate these issues and weigh in the balance the effect to make a choice now to move forward with the mediation that will allow people to do this only on the State level. We're on inflicting this on municipalities unless the municipalities choose to stand by State standards as their local ordinances. We're choosing with legislation moving forward, nothing that is on the books today but bills that we would pass going forward, to look at what the consequences of that would be in impacting the property owner. We're not talking about half of a one acre lot or three acres of a ten acre lot. We're talking about 50% of the value of that property, which would require an independent third party appraisal. If we look at Florida, Oklahoma, or Texas, they have found judicious ways to deal with this issue. The Burt-Harris Law effected many of the points that we're talking about here and it clearly recognized that we, in elected office at the State level, may, in good intensions, make policies on a statewide basis that have impacts. Right now it is clear, unless somebody wants to spend tremendous money and tremendous amounts of time in the courts and take time from the courts that could be used for other weighty matters to debate this, that they are left with no true consideration of how their rights can be respected. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today in support of the pending motion. This Legislature, as we have heard, has discussed this matter for years. We've had comprehensive studies in the 1990's. We've had a thorough exhaustive study recently, I believe it was two years ago. This issue is something that is potentially a solution in search of a major problem. We, as a Legislature, have been doing the right thing. To the credit of the former Senate President, L.D. 1, regulatory reform was formed and we worked very hard, in a bi-partisan way, to address many statutes in state government, many statutes that had potentially been interpreted in an overreaching manner, some that had been interpreted against legislative intent, and some that were no longer practical. As a result of that we addressed issues dealing with sand dunes. We addressed issues dealing with vernal pools. We addressed issues dealing with water fowl habitat. We addressed these issues, many of which we had focused, dealing with waterfront issues. We've heard a lot about impacts on individual landowners. What about the situation where someone has moved into a neighborhood, or moved to an area. They were counting on laws and regulations protecting them because they had made a significant investment. The landowner next to them, if this law was in place, could totally, potentially, be able to avoid what they were counting on for peace and tranquility on their piece of property, clean water and clean air, because they had the ability to hire lawyers and they had the ability to prove potentially that 50% of the value was lost and potentially that landowner, that abutter, had changed the rules of the game on them. There are many examples and we could sit here all day coming up with pros and cons. Clearly in my mind, and clearly the reports have shown that there are more cons than there are pros. We, as a Legislature, are responsible with doing the right thing. We have been doing that. We have been trying to make sure that we get it right. We always have the ability in this Body to roll back a piece of legislation or, as the good Senator from Penobscot said, this deals with going forward. In fact, this has been a learning process, this legislation. These studies have been a learning process. We need to make sure we take time. We need to make sure that we address these issues in each committee where the jurisdiction is responsible to overseeing land use regulation. If we do our work right, if we get it done right the first time going forward, than this issue shouldn't be of concern. Thank you, Mr. President.

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

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I'll just reference two things. One on the study report. In 1995 a study report was done. There were 24 members on the commission with broad representation that was directed to dig deeply into the issues. The commission was chaired by Senator Peter Mills. They held five meetings, at which testimony was taken from 23 different experts, and two public hearings at which the commission directly heard from Maine people. At the end of the process in 1995 the commission unanimously recommended the creation of a land use mediation program, which was enacted into law with the unanimous support of the Legislature. That program is in place today. In 2011 they had another study commission to go over the exact same issue. At that time it was a divided report out of the 2011 study

commission. The Minority Report felt that the existing land use mediation program should be improved rather than embarking down the risky path proposed by the Majority Report. That Majority Report was turned into legislation and was presented to us in the 125th Legislature. That bill was voted down. This has been studied very lengthy as early as two years ago.

The other thing, one of the good representatives from York stood up and mentioned about farmers feeling that they are not being treated properly. As many of you know, my husband's a farmer. About 20 years ago I did real estate and subdivisions. I was selling a piece of land for a very significant amount of money. We went out and we were doing the phase one environmental study. We were walking around and there was somebody from the DEP there. They bent down and they said, "I think this is a vernal pool." Well, 20 years ago I had never heard of a vernal pool. Nobody had heard of a vernal pool. This person was very excited because she had just gone to a seminar in Boston and heard about vernal pools and thought maybe she had identified this vernal pool, which was holding up my real estate sale. I will tell you, I have never thought very highly of vernal pools since that time. I will say that one time there was a bill on vernal pools when I was in the other Body. In the roll call vote on that, you can look it up, was 150 to 1. I was the one person against the bill. I'm not excited about them. When we had to sell land to our son, to put up our property, a few years back it was supposed to be a two acre lot and we had to turn it into a three acre lot because they wouldn't count the wetlands as acreage in the lot. That's fine when you're selling it to your son, but what if I was dividing it to somebody else? I'd have to give them the exact same amount of land for the exact same price on it. It's not fair. I don't like that. I don't like a lot of these things.

This is not the bill to change that. This is not the bill. This bill is too broad. It's too expensive. It's too ambiguous. This is not the bill. If we want to stop infringing upon people's property rights than do it one bill at a time. Pick up the different bills that we want. Change the rules like we did on the L.D. 1 committee that I was on in the 125th Legislature. Don't pass one bill that says this is going to cost us an unknown amount of money, hundreds of millions of dollars potentially; cause increased litigation throughout the state; and change the property rights of property owners. One bill at a time. I urge you Ought Not to Pass on this bill. Thank you.

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 want to be clear. I believe the study commission from last session had three reports. One was, the Minority, mediation and I think there was a third that said that you if had 50% loss in valuation the State had to pay for it, creating a fund which I know for a fact I was on.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Tuttle 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 (#289)

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

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

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/14/13) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Protect Cellular Telephone Privacy" S.P. 484 L.D. 1377

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-278)** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-279)** (2 members)

Tabled - June 14, 2013, by Senator **TUTTLE** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-278)** Report

(In Senate, June 14, 2013, Reports **READ**.)

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 York, Senator Valentino.

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I rise today to let you know that this was a Majority Report, 11 - 2. It is now a unanimous report. The two on the other side had asked for reconsideration on this, but it was so late in the process we said to just talk on the House floor and not bring the reconsideration because we were trying to get bills out. The ACLU has endorsed the Majority Report. I did talk with them this morning on this. Just to let you know that this bill prohibits a government entity from obtaining information concerning the substance, contents, or meaning of the

communication conveyed using a cell phone or other electronic device without a valid warrant. This does have the warrant procedure in here, with the exception, unless it's an emergency or with the owner's consent. Also the bill requires that, if they get this information, they do have to tell the person within three days of obtaining the information and the bill provides that a person damaged as a result of the violation has a cause of action in court against the government entity. We are now united as far as the Judiciary Committee goes on this report and I would urge you to vote for the Majority Ought to Pass as Amended. Thank you very much.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Tuttle to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-278) 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 (#290)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, the motion by Senator **TUTTLE** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-278)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-278) **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.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

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

On motion by Senator **GOODALL** of Sagadahoc, **RECESSED** until 1:15 in the afternoon.

After Recess

Senate called to order by the President.

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

COMMUNICATIONS

The Following Communication: S.C. 477

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

14 June 2013

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

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 491, "An Act Regarding Timber Harvesting on Land Managed by the Division of Parks and Public Lands."

This bill is verbatim the same as LD 340 from the 125th Legislature, which I vetoed. This bill reflects the same policy outlined in LD 284 from the 121st Legislature – it was vetoed by Governor Baldacci. They were returned for the same reason: the bill is unconstitutional.

I support Maine loggers working Maine lands. However, we must abide by our oaths to uphold the Constitutions of this State and the United States. Each and every one of us made that promise when we took office. The instant you break a promise you made is the instant your word means nothing. It may not be popular or easy, but upholding your oath is the right thing to do.

For these reasons, I return LD 491 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act Regarding Timber Harvesting on Land Managed by the Division of Parks and Public Lands

S.P. 184 L.D. 491

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 rise and talk before the inevitable happens. This was a bill that I introduced again, a bill that I believe every returning member of the Senate voted for last year. I just wanted to say that I find it a little strange that people that are elected by the citizens of the state of Maine don't want to stand up and support those citizens by allowing them to have access to state lands that their tax dollars paid to purchase. I know in the 121st Legislature, as the message says, Governor Baldacci did veto a bill that was similar. The bill actually talked about American citizens, which is a violation of the Constitution. This bill, as last session's bill, talked about the fact that it was a program, the H2 program, that the State wouldn't contract with people that were using the H2 program. Certainly not a violation of the Constitution. The Attorney General currently has ruled this in violation of the Constitution. The U.S. Department of Labor says that the State doesn't have to allow H2 workers. I just find it a little bit disingenuous to say that you are supporting Maine workers, Maine jobs, when you allow people to come into work on taxpayer funded lands. There are a lot of people that want these jobs. They are probably one of the better contracting jobs that you can get. I think it's important for us to make that statement to the citizens of Maine that their taxpayer money is going to go to lands that support jobs for Maine citizens. Also I just find it funny that the second floor has had different ideas and opinions on this. I believe we spent a lot of money arguing that the Affordable Care Act was unconstitutional when actually the U.S. Supreme Court ruled it was constitutional. I think that the experience of the second floor is somewhat in question when it comes to constitutionality. Other bills that we've seen here just recently sometimes people bring in questions of constitutionality, that it hasn't been ruled on, but we've gone ahead and voted for them; one being the CanRX bill last week. I just wanted to make clear that we're going to have a number more of these bills coming up. I think it's certainly important to let Maine loggers know that they're supported by working on Maine land. As a representative of the state of Maine, I have no problem supporting Maine citizens over people that work in the program that only is available when there's a lack of U.S. workers. That hasn't been the case on State lands. There have been a number of people that's contracted. The State never has a problem getting contract proposals for these jobs. I just want to make sure that when you

go home that you're doing everything you can to support the Maine people.

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 (#291)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, and 18 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.

Senator **HASKELL** of Cumberland requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

COMMUNICATIONS

The Following Communication: S.C. 478

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

14 June 2013

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

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 1281, "Resolve, Directing the Department of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Recreational Therapists"

This bill would create significant work for the Department of Professional and Financial Regulation, directing executive branch personnel to study the necessity of creating an entirely new licensing board. Creating more regulation and licensing is not the answer to the problems Maine faces. In fact, only three other states have determined these individuals need licenses. Becoming, yet again, an outlier is not a solution for success.

Additionally, as the Legislature well knows, these Resolves reach my desk without funding and direct our limited resources to various tasks. Some may have merit or compliment existing initiatives – those I have and will let become law. Studies utilizing legislative staff are within your purview and I will not second-guess those. However, when a bill directs executive departments to undertake studies on subjects we do not support, I will return them to your desk. This bill is one of those.

For these reasons, I return LD 1281 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:

Resolve, Directing the Department of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Recreational Therapists

S.P. 443 L.D. 1281

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

Senator **LACHOWICZ:** Thank you Mr. President. I just wanted to speak to this bill for just a moment. Recreational therapists, one of the reasons I put this bill in is because I've learned a lot from them. Perhaps most importantly, recreational therapists are some of the most effective professionals working with people with traumatic brain injuries, which is the signature injury of our veterans returning from Iraq and Afghanistan. I just wanted to put that out there for folks, that there are plenty of people that can help our returning veterans and people injured by sports injuries to actually get back to their lives. Thank you very much.

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

Senator **PATRICK:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I, too, rise to ask you to override this veto. Having sat through the public hearing to find out exactly what recreational therapists do, it was very heartwarming, both from the therapists and from the constituents that came and talked about coming from the brink of not having any value in their lives with a brain related injury to being nursed back to health with the help of these recreational therapists. To me, it shows that they have an awful lot of hidden value that a lot of people probably haven't got a clue at what they do. A lot of the brain injuries, especially our veterans nowadays, we're hoping that we can bring them back if they have brain injuries to the fullest function that they can possibly have in their lives. What these folks do is completely valued, from my estimation and understanding of what they do. I do believe the sunrise review is an important step and that is why I was willing to take the opportunity to move that bill forward. They do have value and I do think that for what they do they should have that sunrise review to make sure that the issue is fully vetted and they can have the opportunity to be licensed if people bring that forward. Thank you.

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 (#292)

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

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

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, and 18 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:

COMMUNICATIONS

The Following Communication: S.C. 479

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE GOVERNOR**

14 June 2013

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

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 1093, "An Act To Clarify the Criteria of the Health Professions Loan Program as It Affects Physicians Practicing Neurology-psychiatry."

This bill would provide student loan forgiveness for a single individual through the FAME health professions loan program. This stems from a denial by the professionals at the Maine Center for Disease Control and Prevention to certify the specialty this individual chose to pursue as an "underserved specialty." While the specialty chosen by this individual is important for the treatment of certain conditions, the fact is the specialty was not certified as underserved when the loans were made.

Changing the rules of entire programs to benefit a specific individual is not something the Legislature should undertake lightly. If the testimony presented to the committee indicated there was a problem with the program or certification process, I would understand a bill that provides structural changes. Instead, this bill merely provides a single individual with thousands of dollars in direct benefits. That is not something I can support.

For these reasons, I return LD 1093 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 the Criteria of the Health Professions Loan Program as It Affects Physicians Practicing Neurology-psychiatry
S.P. 375 L.D. 1093

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

Senator **Craven:** Thank you Mr. President. Men and women of the Senate, this was a bill that was voted unanimously out of the Education Committee and went under the hammer in both Chambers. The Chief Executive opted to veto it because he says to benefit one individual is not something legislature should undertake. Forgiveness loans that are awarded to physicians practicing underserved populations in the state of Maine, every single one of them are individual forgiveness's. This bill was brought forward by myself for a young doctor who was promised a loan forgiveness. Actually, she was not my constituent at all, but I had been talking to her for a long time. She came back to Maine and worked with an underserved population. She was originally awarded the forgiveness loan from FAME and she did slightly change her major, but she returned to Maine and she is certainly serving an underserved population. Her major is in neurology-psychiatry. She is the only neurology-psychiatry physician in the state of Maine. For young children with developing brains and for seniors who have Alzheimer's or other neurological difficulties, including our veterans coming back with brain injuries, she is the only specialist that addresses those issues. She certainly addresses an underserved population. If she was practicing in New York or in Boston she'd be making mega-bucks. We lament daily about losing young professionals to other states. We could do something about that in this situation. There is nothing to keep her here in Maine; relatives I suppose. She could move to Massachusetts or anywhere else that would be happy to recruit her to provide the services that she is able to do. I am so very disappointed that the Chief Executive decided to veto this bill because I know that he supports education, he supports keeping our young people here in Maine, and, again, I hope that you would revote the same vote that you took last week under the hammer. Thank you, Mr. President.

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

Senator **Millett:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise to also encourage you to override the veto. This came before the Education Committee. We listened to testimony about this amazing professional who is providing services to a number of sections of our population that are in desperate need of it. The other testimony that we found most compelling is that her services allow for an efficiency and efficacy that is otherwise not possible. While this is a single individual, we recognize that this was a very important service that is provided to our state, as a whole, and does meet an underserved need. It came before this Chamber and went under the hammer and also went under the hammer in the House. I would respectfully submit to you that it was in recognition that this was something that we, as a state, would want to support. I would just also like to inform members of the Senate that the Education Committee did send a letter to the various parties involved from the other committee to please meet and come to a conclusion that would avoid any potential misunderstanding in the future. Thank you, Mr. President.

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

Senator **Johnson:** Thank you Mr. President. Ladies and gentlemen, I just wanted to briefly add to that that we asked, in the course of working this bill, whether there was a more general

solution to this than writing the neurology-psychiatry was specifically an underserved specialty. Unfortunately, FAME, as well, did not have a more general solution to this problem which occurred because this is an emerging and new practice. It is not simply a specialization under neurology or a specialization under psychiatry. That was the difficulty encountered, but we took as general and as applicable to practices in medicine as solution as possible. We hope that in the future there will be a better way of dealing with this than specifically indicating that this was underserved, but it is underserved in our state. We felt strongly, as a committee, and, hence, the unanimous report out of committee that there is a need for making this available in the state. We certainly don't want to drive away an only practitioner at this point and hope that that practice will grow in the state. Thank you.

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 (#293)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, and 21 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:

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator CLEVELAND for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Amend the Charter of the Alfred Water District" (EMERGENCY)

S.P. 601 L.D. 1562

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

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

READ ONCE.

Committee Amendment "A" (S-289) **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.

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

COMMUNICATIONS

The Following Communication: S.C. 480

**STATE OF MAINE
126TH LEGISLATURE
OFFICE OF THE PRESIDENT**

June 14, 2013

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

Dear Secretary Grant:

With reference to the Senate's action whereby it insisted and asked for a Committee of Conference on the disagreeing action between the two branches of the Legislature on the Bill, "An Act To Protect Maine Communities by Prohibiting Horse Slaughter for Human Consumption and the Transport of Horses for Slaughter" (H.P. 913) (L.D. 1286)

I have appointed as conferees on the part of the Senate the following:

Senator Troy Jackson of Aroostook
Senator Linda Valentino of York
Senator Thomas Saviello of Franklin

Sincerely,

S/Justin L. Alfond
President of the Senate

READ and ORDERED PLACED ON FILE.

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish Fees under the Maine Medical Use of Marijuana Act"

H.P. 330 L.D. 480

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-512).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-512).**

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

READ ONCE.

Committee Amendment "A" (H-512) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding Implementation of Cost-of-living Increases for Nursing Facilities" (EMERGENCY)

H.P. 833 L.D. 1189

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-513).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-513).**

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

READ ONCE.

Committee Amendment "A" (H-513) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Ensure the Integrity of Maine's Medical Marijuana Program" (EMERGENCY)

H.P. 1000 L.D. 1404

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-514).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-514).**

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

READ ONCE.

Committee Amendment "A" (H-514) **READ** and **ADOPTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Make Post-conviction Possession of Animals a Criminal Offense"
S.P. 252 L.D. 703
(C "A" S-283)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (4 members)

In Senate, June 14, 2013, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283).**

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

On motion by Senator **GOODALL** of Sagadahoc, the Senate **INSISTED.**

Sent down for 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:

Emergency Measure

An Act To Establish a Pilot Natural Gas District in Maine
H.P. 1036 L.D. 1442
(C "A" H-419)

This being an Emergency Measure and 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.

Ordered sent down forthwith.

Acts

An Act To Implement Recommendations of the Department of Environmental Protection Concerning Product Stewardship in Maine

H.P. 952 L.D. 1335
(C "A" H-470)

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

Ordered sent down forthwith.

An Act To Establish a State Board of Dental Hygiene
H.P. 657 L.D. 933
(C "A" H-452)

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

An Act To Lower Costs to Municipalities and Reduce Energy Consumption through Increased Competition in the Municipal Street Light Market

H.P. 885 L.D. 1251
(C "A" H-472)

On motion by Senator **CLEVELAND** of Androscoggin, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

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 **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Prohibit a Health Insurance Carrier from Establishing a Separate Premium Rate Based on Geographic Area"

H.P. 136 L.D. 161

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

Signed:

Senators:

GRATWICK of Penobscot
WOODBURY of Cumberland

Representatives:

TREAT of Hallowell
BECK of Waterville
COOPER of Yarmouth
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:

DOAK of Columbia Falls
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-288)**.

Reports **READ**.

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

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

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

Senator **GRATWICK**: Thank you Mr. President. L.D. 161, which is entitled "An Act to Prohibit a Health Insurance Carrier from Establishing a Separate Premium Rate Based on Geographic Area," has come out of our committee and is really a combination of a number of different bills that were put in to us. In short, it would eliminate the ability of health insurers to establish a separate premium rate variation on the basis of geographic area and at the same time would merge the rating bands for age and geographic area so that the combined rate differential due to age and geographical area may not exceed a ratio of 3 to 1. The long and short of this, this is a bill that is going to make healthcare easier and more affordable in rural Maine. Specifically, we heard during our committee deliberations from Shelly Mountain, who is married to a logger. They employ three different people. They live in Mapleton. They have insurance but there is a \$20,000 deductible. A \$20,000 deductible for their policy. In other words, it's a catastrophic plan. They were paying \$5,300 for this plan. When the legislation went into effect last year, allowing a geographic rate dispersion, their premium went up to \$6,800. That is no change at all. They still have their \$20,000 deductible, but their premium went up \$1,500 to \$6,800. I think the basic principle behind this is fairness, equality, and helping rural Maine. Specifically, we're all one Maine people. We really are not two Maines. We are one Maine and I think we're all in this together. This bill recognizes that. It's important that the rates not vary a great deal, the rates not favor the big cities like Bangor, Lewiston, or Portland, but rather rates be equal because we are all the same, whether we have a small town interest or whether we have a small business interest, in the county or far off near the Canadian border. I think this is an economic development bill that is going to be very, very important to prevent ongoing hardship for our rural areas. Again, I view this as being something very much pro our rural areas. It doesn't change very important changes that were made in P.L. 90, which is to say there is no change in the smoking criteria or age criteria that are there. Again, I would urge my colleagues from both sides of the aisle to support this as a vote for rural Maine. Thank you, Mr. President.

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

Senator **WHITTEMORE**: Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the current motion. L.D. 161 deals with health insurance rating bands based on geographies for small groups and individual markets. Under P.L. 90 the current rating band is divided into 16 areas which reflects the cost of healthcare in those areas respectively. In January 2014 the ACA mandates that Maine will go to a four region geographic rating band. L.D. 161 will mandate a statewide geographic rating band of one. This will take us from a 16 rating band to 4 in 2014 and a single one in 2015. Let me give you an example what that will do for people in the individual small group markets across the state. Based on a \$500 policy for age 24, on the current rating bands of 16 that policy would cost \$425 in Cumberland County, in the southern part of the state, and \$625 in Hancock, which is in the northern part of the state. The same policy, under a 4 region rating band, would cost \$450 in Cumberland and \$630 in Hancock, respectively. Again, the same policy under a statewide rating band of one would cost \$500. As you can see, the single rating band does spread costs on a statewide basis, lowering costs in the northern counties and raising costs in the southern parts of the state. However, passing

L.D. 161, creating a single rating band statewide, will eliminate all competition among providers. This action would lead to increased costs of health insurance care, which, of course, will lead to higher premiums under a single rating band of one. Let me give you an example. If you have four restaurants in a given town and the government said there could only be one restaurant in that town what do you suppose would happen to the price and quality of the meal? In 2014 the rating bands will go to 4 under the ACA. This will strike a balance and still encourage competition, keeping insurance rates lower. I recommend you defeat this motion. Thank you, Mr. President.

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

Senator **LACHOWICZ**: Thank you Mr. President. Men and women of the Senate, one of the things I talked to people a lot about when I thought about running for office, and in doing that, is healthcare. I believe before this Body I've already told the story about a man named Doug who I met and he had his insurance rates go up quite a bit after P.L. 90. One of the things I also wound up talking to people about since I've been here is that I've heard from a number of people that are primarily in rural areas. They ask us to consider that our rural areas tend to be older. The law allows us to charge a different amount based on age. It's sort of like older people in rural areas are getting a double whammy. I have great concerns about that. I think we should accept the Majority Ought to Pass Report. Thank you very much.

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

Senator **BURNS**: Thank you Mr. President. Ladies and gentlemen of the Senate, as you can imagine, this puts some of us in a very tough predicament, coming from rural communities where we represent folks that fall into this higher category. I am convinced that eliminating all competition is going to be very, very detrimental to my communities, as well as those in urban areas. I can't support this. 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 don't know about eliminating all competition. I think this puts it back on par with the way it was before. I know last session I argued against this bill because I was sure that insurance companies would be driving people in the rural areas to the hospitals in the urban areas. To make that case even more for me, this past summer we saw that with the State employees' health commission. There was a movement to make some of the more rural hospitals not be on the preferred provider list. I came down to Augusta here along with the staff from Senator Raye's office because some of the Washington County hospitals were also going to lose their preferred provider status. I know that Cary Medical Center in Caribou was one of the lowest cost, it actually was the lowest cost hospital in the entire group. Still they were going to be taken off the preferred provider list. The deductibles were going to go up to \$1,500, I believe, for each person from a \$200 deductible. I think that's kind of what you're seeing happening now under this P.L. 90. I've had numerous businesses throughout my district, and it's a massive district

obviously, that have been sending me letters against P.L. 90. During the campaign some people sent me actual checks and I had to send them back because they were so concerned about what was going on with their health insurance rate. One of them, that you can certainly go and ask, was S.W. Collins in Caribou. S.W. Collins happens to be owned by the family of a certain U.S. Senator of ours. They've seen their rates go up 32% after P.L. 90 went into effect. S.W. Collins sent a letter to both Representative John Martin and Representative Peter Edgecomb advocating for them to do whatever they could to change P.L. 90 because they couldn't afford to continue to provide the same type of health coverage to their employees that they had been before P.L. 90. There are numerous cases up and down the district. I certainly understand if you're in an urban area, you're getting a better deal now. I can certainly see why you might want to keep this, but it seems to me that we are one state. We all should have the same type of healthcare provided to us at the same type of price. You hear a lot in here of people talking about what's going on with the rural districts, how there is the globalization of the rural districts. They seem to be pulling all the serves into the urban. This bill here certainly does that. This is the type of bill that can't force you but makes the deductibles higher so that people have to decide about either going to the hospital in an urban area or paying exorbitant deductible rates that they can't afford. That certainly doesn't seem to be fair. I, obviously, live in a rural district, but fairness in health insurance, I think regardless of where I live in the state, I would certainly be advocating for, as I have in the past. I'd ask you to change this error that we made last session and make health insurance on par for everyone in the state of Maine.

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

Senator **GRATWICK:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, very briefly, just one final note about competition. Really there is very little competition for health insurance in Maine for the small individual group market and the small business. There are three basic players in that and they are not truly competing against each other. I do not think this will interfere at all with that competition. Thank you, sir.

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 (#294)

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

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

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, 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-288) **READ** and **ADOPTED**, in concurrence.

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

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 **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Restore Consumer Rate Review for Health Insurance Plans in the Individual and Small Group Markets"

H.P. 186 L.D. 225

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-314).**

Signed:

Senators:
GRATWICK of Penobscot
WOODBURY of Cumberland

Representatives:
TREAT of Hallowell
BECK of Waterville
COOPER of Yarmouth
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:

DOAK of Columbia Falls
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-314)**.

Reports **READ**.

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

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

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

Senator **GRATWICK:** Thank you Mr. President. Ladies and gentlemen, this is part of many different bills that we discussed in the Insurance and Financial Services Committee. This particular bill restores the statutory process for advanced review and prior approval of individual health insurance rates and it also extends the requirement for advance review and prior approval for small group health insurance rates. In essence, at this time if there is an increase in your insurance rate of less than 10% that can be done by the insurance company without significant intervention review by the Superintendent of Insurance. This would mean that those policies of even less than 10% would have to be reviewed by the Superintendent of Insurance. Any rate over 10% is already going to be reviewed by the Superintendent of Insurance. The purpose of this is to give some institutional protection of the State and some clout to two very small parts of the health insurance world; two groups in our population that really do not have much clout, that is those who buy individual insurance and that is 3% of the total, and those who have small group insurance and that is 50 individuals or less and that this is 15%. This is a bill that helps this smaller group of 18% or 20% of individuals. What it does is it really puts public scrutiny back into this process. It counterbalances the significant power of the insurance companies with the protective power of the Insurance Bureau. I think it's very appropriate in this instance. As we talked before in the last bill, there has been an enormous consolidation of the insurance industry over the last 20 years here in Maine and now there are really only three big insurance companies that are dealing with this; Aetna, Anthem, and Harvard Pilgrim, Mega Life has a very small book here. This really allows people in these smaller groups to have some say. The concept has been approved by the Supreme Court here in Maine. They approved the Superintendent's role. This has to do with transparency. Transparency, transparency, transparency; so that people know what the insurance companies rates will be and they have an opportunity to critique them. I would urge you all to support L.D. 225. Thank you.

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

Senator **WHITTEMORE:** Thank you Mr. President. I rise again in opposition to L.D. 225, the current motion. In the business world when a company sells a product or service the price is determined by three major factors: cost of goods sold or services sold; competition, because pricing needs to be competitive; and supply and demand. When retailers, such as a car dealer or a service provider such as a doctor or a lawyer, determines there is a need to raise their prices it is specifically based on the three major factors previously mentioned. They are regulated by their customers who purchase their products or services. If the prices are too high the customers will go elsewhere. If the prices are too low they will lose money and soon go out of business. Health insurance companies are also regulated by their customers in the same manner as retailers. However, they are also strictly regulated by Maine's Bureau of Insurance. This regulation process is called rate review. Under current law when a health insurance company determines the need to raise their rates, due primarily to the rapidly rising costs of healthcare, and that's the reason rates go up, not just because insurance companies want to make more money, they are required to do so by law through a rate review. If the increase in premium is going to be less than 10% a more efficient rate review process is required by the Bureau. If the increase is over 10% a full review is required and can take many months to complete. If for any reason the Bureau found a violation in the insurance company's calculations for a rate increase, the insurance company would be required to return any overcharge of premium to their policy holders. This method of rate review is very efficient. It allows for rate increases to occur as needed in a more timely manner. It keeps the amount of increase lower compared to the much longer full rate review process and saves dollars compared to a much more costly full rate review process. The Bureau of Insurance has indicated that the current law is working very well and recommends no change. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today in support of the pending motion, in support of consumers, in support of small business owners, the ones buying insurance. I want to make it more efficient for them. I'm not trying to put any rate hike on auto pilot. Just under 10% and no transparency, off and running. Many people said, on this side of the aisle, we did not to repeal PL 90. We want to improve it. We want to improve transparency. We wanted to take a step, which we just voted on previous to this. These aren't big issues, folks, but they actually mean a lot to your constituents. They mean a lot to my neighbors. They mean a lot to the businesses in my district. They mean a lot to the same in your districts. What's so harmful for it to turn into law what was in place before? Transparency, men and women. Transparency, Mr. President. That's what we're talking about in this bill. What are we afraid of by putting that back into law? I know the businesses that pay bills in my district for health insurance want that. I know consumers want that. That's what it's about. Let's do what's right, Mr. President. Thank you.

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 (#295)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, 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-314) **READ** and **ADOPTED**, in concurrence.

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

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

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

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Establish the Maine Length of Service Award Program"
H.P. 819 L.D. 1154

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-501)**.

Comes from the House with the Report **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**.

Report **READ**.

On motion by Senator **PATRICK** of Oxford, Bill and accompanying papers **COMMITTED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**, in concurrence.

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 **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Increase Consumption of Maine Foods in All State Institutions"
H.P. 888 L.D. 1254

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-510)**.

Signed:

Senators:
LACHOWICZ of Kennebec
COLLINS of York
GERZOFISKY of Cumberland

Representatives:
GRAHAM of North Yarmouth
BOLAND of Sanford
BOLDUC of Auburn
COTTA of China
HAYES of Buckfield
MacDONALD of Old Orchard Beach
NADEAU of Fort Kent
NADEAU of Winslow
PEASE of Morrill

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-511)**.

Signed:

Representative:
CHENETTE of Saco

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)**.

Reports **READ**.

On motion by Senator **LACHOWICZ** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-510) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-510)**, in 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:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve Preventive Dental Health Care and Reduce Costs in the MaineCare Program"
H.P. 555 L.D. 804

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-517)**.

Signed:

Senators:
CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
MALABY of Hancock
McELWEE of Caribou
PRINGLE of Windham
SIROCKI of Scarborough
STUCKEY of Portland

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

Signed:

Senator:
HAMPER of Oxford

Representative:
SANDERSON of Chelsea

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-517)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-517) **READ** and **ADOPTED**, in concurrence.

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

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 Align Costs Recognized for Transfer of Nursing Facilities and Residential Care Facilities with Ordinary Commercial and Government Contracting Standards"
H.P. 357 L.D. 538

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-516)**.

Signed:

Senators:
CRAVEN of Androscoggin
HAMPER of Oxford
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
GATTINE of Westbrook
MALABY of Hancock
McELWEE of Caribou
PRINGLE of Windham
SANDERSON of Chelsea
SIROCKI of Scarborough
STUCKEY of Portland

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

Signed:

Representative:

DORNEY of Norridgewock

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-516)**.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-516) **READ** and **ADOPTED**, in concurrence.

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

Act

An Act To Prohibit the Placement of Cameras and Electronic Surveillance Equipment on Private Property without the Written Permission of the Landowner

S.P. 354 L.D. 1040
(C "B" S-261)

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

Ordered sent down forthwith.

Senate at Ease.

Senate called to order by the President.

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 Make Convicted Drug Felons Ineligible for TANF Assistance"

H.P. 1037 L.D. 1443

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

Signed:

Senators:

CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PRINGLE of Windham
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-519)**.

Signed:

Senator:

HAMPER of Oxford

Representatives:

MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Reports **READ**.

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

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 Require That Electronic Benefits Transfer System Cash Benefits Are Used for the Purpose for Which the Benefits Are Provided"

H.P. 725 L.D. 1030

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

Signed:

Senators:

CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:

FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
MALABY of Hancock
PRINGLE of Windham
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-518)**.

Signed:

Senator:

HAMPER of Oxford

Representatives:

McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

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

Reports **READ**.

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

Off Record Remarks

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

ORDERS OF THE DAY

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 Regarding Municipal General Assistance"

S.P. 313 L.D. 892

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-288)** (5 members)

Tabled - June 17, 2013, by Senator **CRAVEN** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, June 17, 2013, Reports **READ**.)

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 (#296)

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

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

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/12/13) matter:

SENATE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Establish a Stewardship Program for Architectural Paint"

S.P. 451 L.D. 1308

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-270)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - June 12, 2013, by Senator **BOYLE** of Cumberland

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

(In Senate, June 12, 2013, Reports **READ**.)

On motion by Senator **BOYLE** 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 Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to highlight a few things in this bill. This started last session when a group of individuals approached the Environment and Natural Resources Committee to talk to us about a paint stewardship program. At that time the industry came to us and told us they were working on such a program, that they would want to try to implement it before they put it into place. They have implemented it in Oregon and in a number of other states, California, Connecticut, Rhode Island, and recently in Minnesota and Vermont, with success. The way it works is, yes, in fact, you will ultimately pay a little bit extra money for your paint but it insures that, in fact, it's disposed of or recycled correctly. Many of you, I'm sure, at some time have taken the opportunity for your hazardous waste take-back day at your community. I often participate in that. One of the greatest wastes that we have coming in to us is oil based paint. It costs us \$5 or \$6 a gallon to get rid of it. Working with this organization, which would be separate from the DEP, we, in fact, are able to take that paint, reuse it, recycle it, or have it disposed of properly. That way we get it out of the environment. The way this bill was set up over time, if we find that that deal is too expensive, it can be reduced, but it has been a very successful program in the other states that I outlined. I urge you to vote in favor of this bill. Thank you very much, 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, while this is a noble idea, L.D. 1308, the current report that is before us, I would have to regretfully ask you to vote nay. This is a significant new program to address less than 3% of the paint that would go into the solid waste industry. It does not guarantee that this method will be employed by those who have architectural paint. It will impede the department's priority of focusing on the reduction of lead exposure. It includes an assessment on the cost of architectural paint sold to retailers and distributors that translates, as we all know, into a higher price

to consumers. Finally, it would be the first of its kind in this stewardship in the nation. I, personally, think that Maine has been a wonderful leader in many ways, but if we're going to make policy I encourage us to think about the manner in which we are imposing on our citizens a new untested program that does not encourage them to recycle this in any effective manner. It's a cost that will be borne by the consumer that has no guarantee that they will recruit that in the end. Thank you, Mr. President.

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

Senator **SAVIELLO:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, not to contradict my good friend but I just remind you again that it's already been implemented in Oregon, California, Connecticut, Rhode Island, and it's being implemented in Minnesota and Vermont, so by my count that's one, two, three, four, we'll be the seventh not the first. Also as we talk about the solid waste stream you must remember that oil based paint is a hazardous waste because of the ingredients that are in that. When it's improperly disposed of it can do some tremendous harm to the environment. The second is that there is no effective recycling program presently for latex paint. This actually creates that recycling program. Just recently there was an ad that a local vendor was selling recycled paint for about \$18 a gallon. Mr. President, I think this is a great idea and I'm ready to become number seven.

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

Senator **BOYLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in support of the motion. We had a lot of testimony in committee in support of this bill from the municipal officials. We had testimony from the city of Portland, a big city. We had testimony from Bowdoinham in support of it, describing the cost that they have to set aside each year to deal with paint specifically. This would allay that cost for them. Really we're all paying in one way or another for paint disposal now. Some people dump it in the woods. Some people dry it out and do the right thing. Not everybody does. This program would allow for everybody to do the right thing. One aspect that I thought was encouraging when we received testimony was that this paint program, once it's established here in Maine, would take your old paint now. You wouldn't have to pay. You could take your paint in on day one and they would take all your old paint away from you. I was talking about this bill to one of my employees, the one who manages my business for me. That previous weekend he had the dump guy come and give him an estimate to haul off all his stuff from his house. The estimate was \$200. He told the guy, "I want you to take my paint from the basement." The guy said, "How many cans do you have?" He said, "Seventeen." The guy said, "It will be \$250." The extra \$50, by my calculations, that employee, if he paid the fee up front, could dispose of 66 cans. It's very cost effective. Yes, it's up front, but that's the estimate, 75¢ per gallon in other states. Everybody can bring their paints to these stores at the time they are bringing them. The other thing this paint program does is they don't just take it in. They have a whole educational process where they assist you in measuring out how much you are going to use. It is part of their program to reduce the use, to educate consumers so that they are actually measuring more carefully and

not having the extra paint left over. That's an important part of the program in other states, which it would be here as well. I'm really in support of the program. I think we had a lot of testimony in support and it's a great bill. Thank you.

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

Senator **GRATWICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, rise in support of this, being the third Senator on the ENR Committee. I think that there is no question this will bring slightly higher prices for the consumers, but the one thing that it will not do is bring higher prices for our grandchildren to clean up the mess that we leave. The consequences are not a good thing to leave for our grandchildren. I think this is going in the right direction. I very much support it. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#297)

YEAS: Senators: BOYLE, BURNS, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, FLOOD, GERZOFSKY, GOODALL, GRATWICK, HAMPER, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MAZUREK, MILLETT, PATRICK, SAVIELLO, SHERMAN, TUTTLE, VALENTINO, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: COLLINS, CUSHING, MASON, PLUMMER, THIBODEAU, THOMAS, WHITTEMORE

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-270) **READ**.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-296) to Committee Amendment "A" (S-270) **READ**.

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

Senator **SAVIELLO:** Thank you Mr. President. One of the things is this bill is being paid for by the fee or by the up-front money that the industry is putting into place, nearly \$2 million to make this happen. We're making sure all the costs are absorbed by that

up-front money and the fee that is charged. Thank you very much, Mr. President.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-296) to Committee Amendment "A" (S-270) **ADOPTED**.

Committee Amendment "A" (S-270) as Amended by Senate Amendment "A" (S-296) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270) AS AMENDED BY SENATE AMENDMENT "A" (S-296)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/14/13) matter:

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Promote the Safe Use and Sale of Firearms"

H.P. 874 L.D. 1240

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-450)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-451)** (5 members)

Tabled - June 14, 2013, by Senator **GERZOFSKY** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report, in concurrence

(In House, June 13, 2013, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)**.)

(In Senate, June 14, 2013, Reports **READ**.)

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 Cumberland, Senator Plummer.

Senator **PLUMMER:** Thank you Mr. President. Men and women of the Senate, I will resist the temptation to suggest that anyone who does not own a gun should not be allowed to have an opinion on this subject and I know that I can't talk about the Minority Report, which, in my opinion, could offer many great things. However, I can tell you I believe that two words separated the Majority Report from the report I'm on. Two words. We were so close. Unfortunately, there was a sub-committee that I wasn't

part of so I didn't experience how we got to this point. The words "intentionally" "knowingly" were the words that I would have preferred be submitted. These apply to selling a firearm; selling a firearm intentionally or knowingly to a prohibited person. None of us support selling a firearm to a prohibited person. There are instances where you may know someone. I can think of a couple of people that I would not have known if I had not been in this position and been able to research crimes that they committed. Great upstanding people in the community, but they had committed felonies. If the word "intentionally" or the word "knowingly" could be submitted, could be inserted, before "sells a firearm" I would be very comfortable with these punishments. I also have talked to people, and I'm not sure how much latitude I have in future legislation, who absolutely agree that we should be able to check people out before we sell a firearm, but there is no practical method to do this. We are told that federally licensed firearm dealers will, in fact, run a NICS check for a price. I'm told that some dealers may consider doing it for \$20. That may not be prohibitive, but others would charge \$50. What I will work on, and others have pledged to work on, is some kind of a system where a person who wants to sell a firearm could dial an 800 number and run a check on a person to instill a level of comfort in them.

The concerns that we have never been able to overcome is loaning a firearm to someone. If you are in a hunting party and somebody's rifle jams and you have an extra firearm, should you have to run a records check, a NICS check, on them before you loan them the firearm? Then should they have to run a check on you before they return the firearm to the rightful owner? These are questions we have not, to this point, been able to overcome to the point that I could have signed onto this report on L.D. 1240. I would urge you to vote against the Majority Report and allow us to get to the Minority Report so I can tell you the great things that are included there. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't want to bore this Body with what's not in the bill. I don't want to bore this Body with what we might like to see in a bill. I haven't talked about loaning or borrowing guns on any of these bills. I would like to talk about what this bill is about. It's about voluntary background checks to encourage sellers to require a check when transferring a firearm in a private sale to a stranger. Not a friend, not a relative, not somebody I've known for the last two months, but to a stranger. That's what this is about. It does not require anyone to perform a background check, but it certainly does make it a little bit safer when you do. Forty percent of the guns sold in this state are private sales; 35% or 40%. This is supposed to help us get people to voluntarily go in for a background check when they are selling a gun to somebody. It takes a minute or a minute and a half to go through the background check. It seems to me like all these debates we've been having, especially about background checks, have more to do with protecting those people that can't get through a background check than those that can. This is protecting people that want to sell their weapons to a stranger by having them go through a background check so that we know that they know that they haven't just sold a gun to a person that's prohibited under the law either because they are a criminal, because they have a mental health defect, or because they committed domestic violence. They are prohibited from buying a

gun. I know of my cousin, I know of my best friend, I know a lot of my friends. If they'd done any of those things I'd pretty much know it. So would you. We're not looking to interfere with family relationships. A background check has nothing to do with loaning anything. I think that's kind of a red herring myself. I think that this is a makes sense sort of voluntary bill that's going to encourage people, for their own best interest when they are selling a gun to some stranger that they don't know, to go down to one of the 400 and some odd dealers in the state of Maine and have a background check done for a nominal fee. How do I know that they are nominal fees? Because I know what they are charging now. Some places are doing it for nothing. Some of our major retailers have invited people to come in and they will do that background check for them. Ladies and gentlemen of the Senate, let's start protecting the ones that we need to protect and let's stop trying to protect people that can't pass background checks and start worrying about the people that can. Thank you very much, Mr. President and my friends on both sides of the aisle.

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

Senator **PLUMMER:** Thank you Mr. President. Men and women of the Senate, I did take the opportunity to review the ten page bill and both Amendment "A" and Amendment "B". Nowhere in there could I find the word "stranger" used. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-450) 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 (#298)

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

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, GOODALL, HAMPER, JACKSON, KATZ, LANGLEY, MASON, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, TUTTLE, WHITTEMORE, YOUNGBLOOD

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report, in concurrence, **FAILED**.

On motion by Senator **GOODALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)** Report, in **NON-CONCURRENCE**.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Senator **CRAVEN** of Androscoggin was granted unanimous consent to address the Senate off the Record.

Senator **CAIN** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

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

On motion by Senator **GOODALL** of Sagadahoc, **RECESSED** until 5:30 in the evening.

After Recess

Senate called to order by the President.

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, To Review the Impact of Unfunded Education Mandates and Evaluate the Efficacy of Education Laws (EMERGENCY)

S.P. 322 L.D. 944

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-295).**

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

READ ONCE.

Committee Amendment "A" (S-295) **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.

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Promote Innovation in Public Schools"

S.P. 390 L.D. 1129

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

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

READ ONCE.

Committee Amendment "A" (S-291) **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.

Senator MILLETT for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding Insured Value Factor Payments for Public Tuition Students Attending a Private School"

S.P. 563 L.D. 1505

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

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

READ ONCE.

Committee Amendment "A" (S-293) **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.

Senator CLEVELAND for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Increase Maine's Energy Competitiveness"

S.P. 246 L.D. 697

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

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

READ ONCE.

Committee Amendment "A" (S-292) **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.

Senator VALENTINO for the Committee on **JUDICIARY** on Bill "An Act To Require the State To Enforce Spousal Support Obligations in the Same Manner as Child Support Obligations"
S.P. 155 L.D. 375

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

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

READ ONCE.

Committee Amendment "A" (S-294) **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.

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 Protect Newborn Infants by Requiring Birthing Facilities To Screen for Congenital Heart Disease Using Pulse Oximetry" (EMERGENCY)
H.P. 310 L.D. 460

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-515)**.

Signed:

Senators:
CRAVEN of Androscoggin
LACHOWICZ of Kennebec

Representatives:
FARNSWORTH of Portland
CASSIDY of Lubec
DORNEY of Norridgewock
GATTINE of Westbrook
PRINGLE of Windham
STUCKEY of Portland

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

Signed:

Senator:
HAMPER of Oxford

Representatives:
MALABY of Hancock
McELWEE of Caribou
SANDERSON of Chelsea
SIROCKI of Scarborough

(Representative BEAR of the Houlton Band of Maliseet Indians - of the House - supports the Majority **Ought To Pass as Amended** Report.)

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-515) AS AMENDED BY HOUSE AMENDMENT "A" (H-535)** thereto.

Reports **READ**.

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

READ ONCE.

Committee Amendment "A" (H-515) **READ**.

House Amendment "A" (H-535) to Committee Amendment "A" (H-515) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-515) as Amended by House Amendment "A" (H-535) thereto, **ADOPTED**, in concurrence.

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

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 **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Improve Wind Energy Development Permitting"

H.P. 260 L.D. 385

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-521)**.

Signed:

Senators:

CLEVELAND of Androscoggin
JACKSON of Aroostook

Representatives:

HOBBS of Saco
BEAVERS of South Berwick
GIDEON of Freeport
RUSSELL of Portland
RYKERSON of Kittery
TIPPING-SPITZ of Orono

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-522)**.

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-521)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-521)**.

Reports **READ**.

Senator **CLEVELAND** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-521)** 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 Youngblood.

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm rising in objection to this motion; not because of the things are in the amendment. There are some needed issues that are addressed as the result of amendment "A". I'm opposed to this for what it doesn't include. When the original wind legislation was put forward, and when it had its public hearing and work sessions in the Energy Committee, this was back before my time and before some of you other people's time, there was a phrase in there that said wind energy must have a tangible benefit to the state of Maine. A very simple sentence. Just before the final vote was taken to recommend to the Legislature to implement that wind energy, that phrase was removed. That's a very, very important phrase as we permit increased and additional wind farms in the state of Maine. They should, and everyone agrees that I've talked to, provide a tangible benefit, and it doesn't say what that benefit is, to the state of Maine. They are presently providing a tangible benefit to the community that has enticed them to come into their area through increased taxes, playgrounds, and a whole variety of things. That, obviously, is done to entice a vote in their favor to come in. You can't blame those communities from doing those kinds of things. It should also, as the original language in the original data that was put together, provide a tangible benefit to the state of Maine. We give up a lot. We get a lot. Wind energy is good. It provides diversification and I'm not opposed to that. I am opposed to saying they don't have to provide something; reduced rates on our overall energy costs. Some tangible benefit that can be seen and have a benefit to the entire state of Maine. I would encourage that you reject the motion that's on the floor so we could move to another amendment. Thank you very much.

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

Senator **CLEVELAND:** Thank you Mr. President. Men and women of the Senate, this bill was presented to us for the purposes that are twofold. First of all, providing an opportunity for those folks who are in unorganized territories and are in the expedited wind areas to provide more opportunity to have input and to comment on the process and, secondly, it adds two environmental protections in the bill as well. This was not a bill that was introduced for the purposes of defining the benefits of the state of Maine. That exists under the current law. The purpose of the bill was not for that function. That was language recommended by others during the process. What the bill does, in quick summary, is to provide an opportunity for a public meeting or hearing at the local regional area where a wind project is being proposed. It requires proper notice to those who live within the region of the hearing in adequate time. It provides them an opportunity to comment on the process and for those comments to be made part of the record. It further provides for a very easily obtained opportunity to become an intervener in the process, which they currently do not have, so that those who may have concerns can be an official intervener and they can present witnesses, they can cross examine witnesses at the public hearing processes with the Department of Environmental Protection, so they can further assure that their concerns are being adequately represented during that process. It requires that those comments become a permanent part of the record and the process. This was an effort to recognize that there are those in certain areas, because they are in an expedited wind area and because they are in an unorganized territory, that don't have that

same protection that others who would have local ordinances would have that opportunity to do. It does those two things. Further, it protects an endangered bird, the Bicknell's Thrush, habitat by providing provisions that protect its habitat in an area where wind development is proposed. It also adds additional language for protection of scenic wildlife views within the law. We think it substantially moves forward in providing an opportunity for those who should have more opportunity to have input into this. It's a step forward in accomplishing that task. I don't think any of them are opposed to it because at least it gives them something that they don't currently have. I would urge your support for the bill.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Cleveland to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-521) 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 (#299)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator CLEVELAND of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-521)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-521) **READ** and **ADOPTED**, in concurrence.

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

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 Resolve, To Extend the Deadline for the Department of Health and Human Services To Submit a Report on Persons with Intellectual Disabilities or Autism (EMERGENCY)
H.P. 552 L.D. 801

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

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

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

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

Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Permit a School Administrative Unit Discretion Concerning Participation of Students from Charter Schools in School Extracurricular and Interscholastic Activities"
H.P. 630 L.D. 906

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-524)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-524)**.

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

READ ONCE.

Committee Amendment "A" (H-524) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Provide for Economic Development with Offshore Wind Power"
H.P. 1053 L.D. 1472

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-525)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-525)**.

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

READ ONCE.

Committee Amendment "A" (H-525) **READ** and **ADOPTED**, in concurrence.

Senator **CLEVELAND** of Androscoggin moved to **TABLE** until Later in Today's Session. Subsequently, same Senator requested and received leave of the Senate to withdraw his motion to **TABLE** until Later in Today's Session.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Simplify and Encourage the Sale of Hunting and Fishing Licenses and Permits" (EMERGENCY)
H.P. 190 L.D. 229

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-523).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-523).**

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

READ ONCE.

Committee Amendment "A" (H-523) **READ** and **ADOPTED**, in concurrence.

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1133

ORDERED, the Senate concurring, that Bill, "An Act To Amend the Laws Governing Pawn Transactions," H.P. 64, L.D. 71, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

READ and **PASSED**, in concurrence.

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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Related to Public Funding of Charter Schools"

H.P. 750 L.D. 1057

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-529).**

Signed:

Senators:

MILLETT of Cumberland
JOHNSON of Lincoln

Representatives:

MacDONALD of Boothbay
DAUGHTRY of Brunswick
HUBBELL of Bar Harbor
KORNFIELD of Bangor
NELSON of Falmouth
RANKIN of Hiram

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-530).**

Signed:

Senator:

LANGLEY of Hancock

Representatives:

JOHNSON of Greenville
MAKER of Calais
McCLELLAN of Raymond
POULIOT of Augusta

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529).**

Reports **READ.**

Senator **MILLETT** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529)** 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 Cumberland, Senator Millett.

Senator **MILLETT**: Thank you Mr. President. Ladies and gentlemen of the Senate, the current funding mechanism for public charter schools requires the utilization of local property taxes, which in some cases can be as much as 80% or more and can have a disproportionate impact on a district's public schools. Voters approved budgets that they believed they have control over through their elected school board. It is unreasonable to expect taxpayers to turn over hundreds of thousands of tax dollars to charter schools with no oversight. MSAD 54 was faced with a loss of approximately \$455,000 in 2012-2013 and for 2013-2014 it's close to \$665,000. Teachers are cut. Academic programs are cut. Extracurricular activities are cut. L.D. 1057 addresses these issues by funding charter schools from General Purpose Aide as calculated by a per pupil cost and enrollment. It is through this mechanism that we will be providing relief to both the property taxpayers, local property taxpayers, and the local school districts. I urge you to follow my light. Thank you.

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

Senator **LANGLEY**: Thank you Mr. President. Men and women of the Senate, I can't disagree totally with my Senate Chair from the Education Committee. I think it's just a matter of how to accomplish this in the best way. I think we saw some issues in the last year where, by strange coincidence, a particular town was affected by students going to two different charter schools in their region. There was a drain on their school system because of that. As we looked at this particular bill and worked with the department on it, this amendment goes pretty well up until where it ends up in the miscellaneous costs line. The next amendment, which is the Minority Report, if we could get to that, I think just does a little better job. I wish I had the chance to speak to that. The Majority Report, in my opinion, puts the charter funding in a place where it then becomes a target and more of what could be a political football to kick around. We've seen a lot of bills that really were aimed at sort of clipping the wings of a fledgling initiative. I think the Administration and the second floor is fine with the funding as it is, but the Minority Report, I think, would get all the way through if we're able to get to that. I'll be opposing this legislation here and hope to get to the next one. Thank you.

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

Senator **JOHNSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, in the course of working this bill a number of possibilities were discussed. We ended up with this report, putting the funding under the miscellaneous category because otherwise, if it's simply mixed in with other schools, it gets funded based on how this process is described to us by the department, 100% funding the charter schools and that comes off the top. Whatever is left in the education funding, which we all know isn't at 55% that it ought to be at yet, is what ends up remaining to fund some percentage of regular education in other public schools besides the charters. We felt, therefore, that it was appropriate, that this being in the miscellaneous expenditure we could have some control of the amount going to public schools and the amount going to charter schools and not simply take, based on however many charter schools were chartered, that money off the top and away from other public education. That's

the reason behind the placement in this Majority Report you have before you and I urge you to support it. Thank you.

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

Senator **MILLETT**: Thank you Mr. President. Thank you for allowing me to speak again on this matter. I would disagree with the early characterization that this bill is an attempt to clip the wings of the public charter schools, but rather an attempt to improve it and to eliminate, as much as possible, some contentions around public charter schools in our state and the concerns that we've heard from across all our districts. There are a number of schools that are in miscellaneous. They are the Maine School for Science and Math and the Baxter School for the Deaf. I'm sure that when they were first introduced there was probably a great deal of concern for the stability of the funding for those institutions, but, as we know, they are indeed quite stable. I'll leave it at that. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Millett to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-529) 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 (#300)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-529) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass As Amended

Senator VALENTINO for the Committee on **JUDICIARY** on Bill "An Act To Improve the Quality of Guardian ad Litem Services for the Children and Families of Maine"

S.P. 297 L.D. 872

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-297)**.

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

READ ONCE.

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

Senator **VALENTINO:** Thank you Mr. President. Men and women of the Senate, on a unanimous report I will not speak long, but I will rise today to say a couple of things. To say that this issue has been a long standing issue would be an understatement. Having in my files here going back, we have a 2006 OPEGA report on GALs, which are guardian ad litem. We have a 2008 update on the report. Then we have a Judiciary Branch 2008 report, combined with the 2010 report. A 2012 Silver Commission report. A 2013 Mullen Report. This has been going on since 2006. This is a signature bill from the Judiciary Committee and that's why I wanted to rise today. We've worked extensively on this over the session and it is a unanimous report. It enacts a new chapter for guardian ad litem. Finally there is a bill that has teeth in it to address this problem. There will be a roster of guardian ad litem that will show their roles and responsibilities, standards of conduct, length of appointment, payment for services and billing practices, reporting requirements to the court, and, most importantly, a complaint process will be put in place. Please vote for the unanimous Ought to Pass Report.

Senator **VALENTINO** of York requested a Roll Call. Subsequently, same Senator requested and received leave of the Senate to withdraw her request for a Roll Call.

Committee Amendment "A" (S-297) **READ** and **ADOPTED**.

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

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in favor of this pending motion as well. I'd like to tell you a little bit about guardian ad litem. A guardian ad litem is mandated by the court via contested divorce cases; usually being that parents cannot agree on custody of their children. The role of the GAL is to represent the best interest of

the child and to investigate the parents, schools, family, and friends so they can help the judge in deciding who should get custody and whether custody should be shared. Historically, the GAL system was created specifically for children in cases of child abuse by the parents or for children who were in foster care. This is a federally funded program. These children didn't have loving families to watch out for their best interests, which is why the system of GALs was created. The role quickly filtered into the mainstream of the divorce industry. For most of us, a divorce marks the first time we ever step foot into a courtroom. When you are mandated by the judge to pay for a GAL you automatically assume that this person has been trained and is qualified to understand family dynamics because they are looking out for the best interest of your child. You assume they have a background in child psychology, maybe social work, or at the very least that the Judicial Branch has a program in place that legitimizes this role of the GAL. There are 297 GALs in the state of Maine; more than 85% of them are lawyers. Their training consists of a 16 hour course and a background check. In fact, it takes longer to get a real estate license than it does to get a guardian ad litem license. After the 16 hour course they can charge upwards of \$150 an hour. They are given no time limit to complete their investigation, so the cost of the guardian ad litem sometimes is higher than the cost of the divorce itself. There isn't a program in place to oversee the GALs, seeing if they are doing their job ethically, which means their role duties are not defined, nor is the complaint process. They have no code of conduct and no billing procedure set in place, yet it is mandated by the system, the Judicial Branch, that you have a GAL. Recently, in front of the Judiciary Committee, it was stated by the Judicial Branch themselves that they agreed that they have not had oversight of GALs and the GALs have not been doing their job. While testifying in front of the Judiciary Committee, I heard horror stories from families who had GALs that were unethically bias, rude, lied on reports, ignored evidence of abuse, and shared personal information with others not involved in their cases.

I continue to this day to receive e-mails from families that have been negatively affected by the GALs role. Most of them are in the same position as I was. I had no idea what a GAL was. It's been said that parties using GALs are emotional. Well, I would have to agree. They are very emotional. I was very emotional. When the GAL came into my life I was fighting for my children. I'd been with them day and night as a part of their lives. Now I had this stranger come into my life and tell me that, because I was a professional firefighter, my job was detrimental to my children. Mind you I was a firefighter prior to being married, prior to having children. The only schedule my children knew that I was home for 24 hours and gone for 72. Yet the guardian said I should be working five days a week and home at nights with my children because that would be more beneficial. I have to ask this entire Body, what would a GAL say if we were fighting for our children? This schedule can definitely not be beneficial for our children and definitely have a negative impact, if we go by the rules that my GAL had.

Currently there are no rules. This bill will put rules in place and it is long overdue. The fees that GALs have charged have reached as high as \$100,000 in some cases; \$70,000, \$35,000. There are many more cases where the astronomical costs have gone out of whack. This bill will ensure transparency and accountability to protect Maine's children and families. It establishes procedures for the appointment of GALs and their duties. It directs the courts to establish expenditure limits on their

fees and states that a GAL perform within the scope of their duties. It will add Maine to one of the states that recognizes the national call for GAL reform. I hope you will pass this report and vote with me on L.D. 872. Thank you.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I just want to add a little bit more to this. As you can see, there is a lot of passion that went into this, and rightfully so. This is such an extremely important issue having to do with families and children and disputes that are sometimes so heated that we cannot possibly imagine how they ever come to a resolve. I also want to say that, at least from my perspective having I guess spent most of the winter on this subject and having some personal experience myself, I believe that most of our guardian ad litem are doing a very good job. The problem was that there are a lot of issues that were brought to us on both sides, but especially on, I would say, the negative side, that certainly substantiated, at least in my mind, that there were a lot of problems that needed to have oversight. That's why this committee did spend most of the winter working on this bill. I think at some points there were maybe thirteen different points of view and perspectives as to how this should come together. Not everybody got everything that they wanted on it, including myself. The final analysis is that we believe, unanimously in this committee, that we have improved the product that has been languishing for the last six or seven years between the Government Oversight Committee and the Judiciary Committee. We think that the product that we've brought before you today is going to make drastic improvements and make family's lives and children's lives much better with the product that they are going to be working under. We certainly urge you to support it. This is much better than what things were in the past. Thank you for your time, Mr. President.

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

Senator **TUTTLE:** Thank you Mr. President. Members of the Senate, I would thank Senator Dutremble for putting this bill in. I had really no idea the way the system was going and how it had affected a number of families around the state. I think that Senator Dutremble said there had been many questions about the pay for a guardian ad litem and putting many folks in the state, that were going through a difficult situation and through a financial situation, in distress. As one member of the committee, I would thank him for doing that. It is my pleasure to support it. Thank you, Mr. President.

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

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 (#301)

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

NAYS: Senators: None

35 Senators having voted in the affirmative and no Senator having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Assigned (5/29/13) matter:

SENATE REPORTS - from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Promote Sustainable Food Policies"

S.P. 283 L.D. 745

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-136)** (4 members)

Tabled - May 29, 2013, by Senator **JACKSON** of Aroostook

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

(In Senate, May 29, 2013, Reports **READ.**)

On motion by Senator **JACKSON** of Aroostook, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-136) **READ.**

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-298) to Committee Amendment "A" (S-136) **READ.**

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

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, what this amendment does is it establishes a Maine Farm to Plate Commission, a study group to look at developing a strategic plan for agriculture economic development. It also is going to look at some of the issues that deal with food insecurity. In earlier testimony we talked about a U.S. Census Bureau report talking about how in some counties in Maine we had as high as 18% of the people responding talking about food insecurity. I know in committee we actually asked the Department of Agriculture about it. They said that they were actually falling behind and had more and more reports of people that are having issues feeding themselves. This commission would look at trying to help out small farming processors and also look at ways to try to bridge the gap between these farming processors and food banks that are helping to feed these people that are going without. I think it's a good idea. Anything we can do to help make it better for the agriculture community and people that are having harder times to find enough food to eat, I think, is a good thing and the state ought to be looking into that. It has no note on it. It's going to be able to accept funding. I think it's a great idea to try to help people with issues that are certainly out there and the department recognizes those issues are out there. It also is going to be able to work on economic development for farms. I think it's a win-win on both sides and I would hope that the Senate would move to adopt this amendment. Thank you very much.

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

Senator **LANGLEY**: Thank you Mr. President. Men and women of the Senate, first of all, thank you, Mr. President, for inviting me in to help craft this. Many of you know I'm a professional chef. I own and operate a small Mom and Pop restaurant and I have day-to-day dealings with folks that harvest and buy our food locally, whether it be locally farmed products or locally harvested shellfish or even some in aquaculture. What I like the most about this piece of legislation is that in this commission it brings together various groups that are involved in food production in the state of Maine. There have been a lot of bills this year talking about GMO labeling and other farm issues. You see a lot of different factions of the agriculture industry around the State House. I believe that there is a place for both the large agricultural businesses and our small maybe gentlemen farmers or small farmers that look to produce for their local communities. We've seen some friction out there between the large laws that are designed for large scale and almost a slight rebellion from the smaller producers about the right size of legislation. For me, this was the next step from the food sovereignty bills that we looked at, the creation of a commission much like this. Senator Alford really had sort of jumped the gun on that and had thought ahead to do this. As this commission is put together, we've got some key folks in here to try to sort of facilitate this, I think; the University of Maine Extension Office, large scale producers, and small scale producers. To then take a look at all these issues, take a look at food sovereignty, and have a place where people's voices can be heard and really look at our agricultural industry, from top to bottom and big to small. I think this is a great start and I was very pleased to help a little bit with this and would ask for your positive vote. Thank you.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-298) to Committee Amendment "A" (S-136) **ADOPTED**.

Committee Amendment "A" (S-136) as Amended by Senate Amendment "A" (S-298) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-136) AS AMENDED BY SENATE AMENDMENT "A" (S-298)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/12/13) matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Ensure Accountability of Guardians Ad Litem and Parenting Coordinators"

H.P. 689 L.D. 975

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-434)** (4 members)

Tabled - June 12, 2013, by Senator **VALENTINO** of York

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, June 11, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 12, 2013, Reports **READ**.)

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

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Promote the Safe Use and Sale of Firearms"

H.P. 874 L.D. 1240

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-450)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-451)** (5 members)

Tabled - June 17, 2013, by Senator **GOODALL** of Sagadahoc

Pending - **ACCEPTANCE** of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)** Report, in **NON-CONCURRENCE**

(In House, June 13, 2013, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)**.)

(In Senate, June 17, 2013, the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-450)** Report, in concurrence, **FAILED**.)

The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)** Report, **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "B" (H-451) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-451)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/14/13) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use"

S.P. 72 L.D. 236

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-281)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-282)** (6 members)

Tabled - June 14, 2013, by Senator **TUTTLE** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, June 14, 2013, Reports **READ**.)

Senator **VALENTINO** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281)** Report.

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

Senator **VALENTINO:** Thank you Mr. President. Men and women of the Senate, first of all I want to say on this bill that it was not our signature bill like the last one, but we certainly spent a lot of time on it in the Judiciary Committee. The public hearing

on this bill was on February 26th. It has now been almost four months. We've had numerous work sessions on it. We actually impaneled a working groups with all of the stakeholders to come up with a compromise, which they failed to do, and then went through numerous versions of this bill, many over the last four months. We failed to get a unanimous report. I want to thank the good Senator from Oxford for sponsoring this very timely bill. We all agree that this new technology threatens privacy and needs to be regulated, but we are traveling on two different roads. It is unfortunate that we cannot attend every public hearing and every work session on every bill that we vote on here on the Senate floor. Instead we work through committees. Many times I have had to trust the work of the committee when I didn't know about a subject. It is difficult when it is a report that is divided on whom to follow. I want to tell you who supported the Majority Report. The Majority Report is the work of the bi-partisan majority of the Judiciary Committee. All three members of this Body on Judiciary are on the Majority Report. The chair of the other Body, who is an attorney, is on the Majority Report. The lead of the other Body, who is an attorney, is on the Majority Report. The Attorney General supports this report. Law enforcement, State Police, and Public Safety supports the Majority Report. Private entrepreneurs, those who are manufacturing drones now in Limestone and in Brunswick and in Limington, all support the Majority Report.

What is the Majority Report? The main element of the Majority Report is a moratorium. This is new technology. This is new information. In order to have all of the rules and the regulations necessary to be put into place the committee felt that they needed time to do this. They needed time to look at the technology that was out there and how rapidly it was changing. That is why, on the Majority Report, the very first paragraph you will see is a findings. We came up with the findings that this technology presents a potential threat to the privacy of the citizens of this state and that is why we need to set guidelines and supervision of this.

What did we do? We put in a moratorium. The moratorium would have the Maine Criminal Justice Academy take a look at this new technology. We had a definition of unmanned aerial vehicle, which means an aircraft operated without a physical human presence within or on the aircraft, that, in the manner in which the aircraft is used or the manner in which it is equipped, is capable of performing audio or visual surveillance. This is a different definition that you will hear from other people. You will hear a lot about having a search warrant. I want to impress upon you more than anything else that no, our report does not require a search warrant. Why? Because it's a moratorium. That's why. If you are not allowed to do it than why are we putting in there about search warrant or no search warrant? This is something that is coming back to the Judiciary Committee. I just want to repeat that. It does not say a search warrant is needed because we have a moratorium in this report.

This goes on to have what the policy standards that we are looking at to go through on this. I also want to read to you that it's very clearly stated under the standards that the board, and I'm reading directly from the bill, "That the board of trustees of the Maine Criminal Justice Academy shall take into account individuals' reasonable expectation of privacy under the Fourth Amendment of the United States Constitution." The Fourth Amendment, I will read to you, says, "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no

warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized." This is the intent of the Judiciary Committee that when these rules and regulations come up that probable cause and search warrants will be needed. It goes on to say, The board of trustees shall review the options for collecting and reporting information on the use of drones. The board of trustees shall report to the Joint Standing Committee on Judiciary by December 31, 2013 with minimum standards for written policies and protocols, recommendations to ensure individuals' reasonable expectation of privacy is protected, recommendations for the appropriate collection and reporting of information on the use of the unmanned aerial vehicles. The Joint Standing Committee than," this is one change, it was "may" and it is going to be changed to "shall", "shall report out legislation to the Second Regular Session of the 126th Legislature."

What the Majority Report does is recognize the fact that we do not know what we are dealing with with drones. Everybody wants drones. Real estate brokers, photographers, surveyors. Everybody wanted the drones. We need to slow this process down. We need to respect the privacy of the citizens of the state of Maine and, by doing that, we are placing a moratorium on the use for law enforcement so that they will not be snooping into people's lives. They will not do that so, therefore, they do not need a search warrant because they are not supposed to be doing it. Then it will come back to the Judiciary Committee and we will report out a bill based on their recommendations. The moratorium is still going to be in place until July 1, 2014. It gives us an entire year to look at this and have professionals look at this, not to have people just simply write a statute and say, "I want to put it in right now without looking at the unintended consequences of it." I urge all of you, if you want to protect people's Fourth Amendment rights, if you're looking for search or seizure, if you want to make sure the law is done correctly, than please vote for the Majority Report so that we can get the information that we need and have it come back next session. Thank you very much.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, it's easier to follow the good Senator from York when we're in opposition. It's very difficult to follow her when we are on the same side of an issue. I am on the same side of the issue as she has just theorized to you and done so extremely well. I just want to add that we understand, and I understand, just as everybody else in this room does, that everybody is concerned. Everyone in this country right now is concerned about privacy issues. That's understandable because of some of the things that have been transacted in the last few years. I think that's why this bill is so extremely important. The precautions that need to be taken are going to be taken. That's the good thing, in my mind, about the way law enforcement and the criminal justice system works in this state in this day and age, right now in 2013. When a new initiative comes before us we take the time to put in the appropriate criteria and appropriate safeguards to make sure that when it is rolled out, when it is utilized, when it is put into place for the benefit of the public, that it is done so correctly and it is done so consistently with the law and with the Constitution. That's why I hope you will keep in mind, as you consider this bill, that this moratorium is going to give the

appropriate authorities, the Criminal Justice Academy, time to research and put together that criteria that will make sure that when this technology is used by law enforcement, and it will be, there is no question in my mind that in the future it will be used by law enforcement, that it is done so appropriately, consistent with our Constitution. We've done this with other initiatives. We've done it with domestic violence. We've done it with racial profiling. We've done it with high speed chases. Had we not we would have gone though many errors, I believe. I think this is going to avert that. As the good Senator said several times, the moratorium will assure that law enforcement in this state will not be utilizing this technology until appropriate criteria has been drawn up and appropriate guidelines are put into place and they are vetted by the Judiciary Committee and vetted by this Body and the other Body. I hope you will support Committee Amendment A. We feel this is a very appropriate approach to this initiative. Thank you, Mr. President.

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, first of all I want to personally thank my Senate colleague from York, Senator Valentino, for taking on the monumental task of this bill. I'd like to thank the Judiciary Committee and all the stakeholders. Being chair of the Labor, Commerce, Research and Economic Development Committee, I didn't have half the time I wanted to spend on this issue and I relied on the stakeholders that the committee formed. Basically, throughout this whole process there weren't two reports. There was actually the bill. I will say that the committee worked it diligently, time and time again, many work sessions. The final report, Report A and Report B, happened at the very end of the process, as it does in many, many instances. Right now the Federal Aviation Administration tightly regulates the domestic use of drones. That is about to change. Soon states will be able to use the high-powered technology for surveillance. It is up to our Legislature to ensure that appropriate privacy protections are put in place before drone use becomes common police practice. Drones should be prohibited from indiscriminate mass surveillance, with their use by police only permitted when there are grounds to believe they will collect evidence related to a specific instance of criminal wrongdoing or in emergencies or administrative investigations. Abuse by bad apples can occur or sometimes the entire institution can create bad practices that lead to abuse. The FBI in the 20th Century engaged in illegal surveillance of those challenging the status quo with new technology. We should not sacrifice our privacy rights.

In that vein, I urge you to oppose the Majority Report. Under the Majority Report we would transfer our responsibility to protect Maine's privacy to the Criminal Justice Academy, asking police to regulate themselves. That is not how our system of government should work. Some have compared drones surveillance to helicopter surveillance, arguing that there is no difference between the police flying a helicopter or a drone over my house. That premise is flawed. If a helicopter is hovering over my house for days at a time I would be able to hear it and see it. If a helicopter is following my car around I would know it. If the police wanted to fly a helicopter equipped with sophisticated technology, like thermal imaging, the police need a warrant. It would be prohibitively expensive for the government to use helicopters in this way. There is a reason why we don't see helicopters

overhead 24/7. Drones are different. They are essentially flying cameras. The technology is ever more precise and evasive. The cost of acquiring and operating drones is dropping. Just this week we voted to require law enforcement to get a warrant before installing a surveillance camera on private property; or we didn't. The same rules that would apply on the ground should logically apply to cameras in the sky. Drones are incredibly powerful surveillance tools. Oversight, transparency, and accountability are essential to prevent abuse.

The rules and limits for government drones are properly created in the Legislature and implemented under judicial oversight. To be clear, the Majority Report does not set limits on government drone use. It simply asks the Criminal Justice Academy, a body made up of law enforcement, to come up with guidelines. Guidelines are not laws. It is up to us to enact laws that will set reasonable limits on drone surveillance.

It was stated that the Joint Standing Committee on Judiciary may report out legislation to the Second Regular Session of the 126th Legislature upon receipt of the report. It was said that we may change that. Within the Majority Report I may change and put a moratorium on but still have warrants. There is a big difference between the two reports. In fact, we're asking to have warrants, which under the Fourth Amendment I think we would expect to have in all law enforcement, and there should be no change or differentiation between any parts of the entities that use warrants now. In wondering as to whether or not we're going to have just reasonable expectations is one thing, but I really firmly believe that we can do something now. I think the amount of work that we put into this bill, and all the stakeholders and the committee, that it's worthwhile to vote against the Majority Report and move onto the report that does have some language in it that will protect people.

Under standards and data collection in the Majority Report and developing minimum standards of written policies or protocols for use of unmanned aerial vehicles by law enforcement agencies as required in the Maine Revised Statutes, the board of trustees and the Maine Criminal Justice Academy shall take into account, it doesn't say will but shall take into account, reasonable expectation of privacy under the Fourth Amendment. I would hope that we have had a long history and track record of protecting people's rights under the Fourth Amendment. I would ask you to vote against the Majority Report and move onto the Report B. Thank you.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I also rise today to oppose this motion. First I'd like to publically commend my colleague, the good Senator from Washington County, for bringing us the law enforcement perspective. We desperately need that perspective and his floor speech is very thought provoking. In my mind there is no doubt that Trooper Burns committed his life's work to getting the bad guys off the streets. I'm honored to serve with him.

In my opinion, however, technology has outpaced our laws. We must strive and fight with all that we have to make sure we protect our rights and our liberties. We have many laws curtailing what the government can do to us, but we have very few about what they can do for us. We really have to watch carefully what is being done for us.

I'm a huge fan of science fiction and very often science fiction movies present a futuristic view of the concerns of today in such a way as to make us think. One such movie, interestingly enough, is called The Minority Report. In The Minority Report from 2002, starring Tom Cruise, is set in the future where the government has a way to predict crimes and arrest people prior to committing those crimes. Tom Cruise is an officer in the pre-crimes division. All is well in the script until Tom Cruise is wanted for a future crime. Other themes in this movie include the role of preventative government in protecting its citizenry, the role of media in a future state where electronic advancements makes its presence nearly boundless, and the potential legality of an infallible prosecutor. The thought provoking script is full of technological ways to track citizens for both commercial and law enforcement reasons. The movie ends, in case you haven't seen it, with the dismantling of the pre-crimes division. What was once science fiction is now a looming reality. Three weeks ago I saw an episode of Sixty Minutes where Leslie Stahl volunteered for an exercise where she walked into a storefront. As she walked in facial recognition software scanned her face, searched through the internet; through Facebook, including all her likes and tags; and by the time she reached the interior of the store a coupon for diet Coke appeared, as this was her drink of choice. This is a scene right out of the movie The Minority Report from 2002. Furthermore, in this Sixty Minutes episode, it was noted that this is perfectly legal in the United States, but it is illegal in Europe and has been for a while.

What does this have to do with drones? Drones are relatively cheap. You can buy one on-line. The larger police departments may be able to buy several, replacing the precious, but costly, human boots on the ground. The drone is much more precise and more intrusive than surveillance from a helicopter, or even a satellite. A drone can hover outside of a window, operated not just by remote control but by algorithm, continuously with no human intervention. Loaded with a camera and facial recognition software, only your imagination limits its potential use. Is this the world we want? Do you care to write the next movie script? The omnipresent eye of the machine could determine fair or foul on all our streets at all times and we might be safer, but might. Is that a world we want to live in?

Under the Majority Report the police would make their own rules, something that came to the pre-crime division. The Majority Report includes a moratorium for one year, but just on the use of drones by police for criminal investigations. In a sense, under the Majority Report ordinary citizens going about their private lives would have less privacy protection than those suspected of criminal wrongdoing.

This morning I did speak with Attorney General Mills and, having thought about this for quite a while, felt that the next step for us would be to put together what I would call something like a technology ethics panel to bring together people such as constitutional lawyers, law enforcement, and civil rights folks to really have a broader discussion about this issue. I think that's where we should head because the technology will outstrip us. A science fiction writer, Ben Vova, writes, "The strange thing is that science fiction writers aren't really trying to predict the future. In fact, most of us don't believe that there is the future to predict. The future isn't inevitable, immutable, it's created moment by moment by the things we do or fail to do." We have an opportunity now, before it's too late, to set in place sensible safeguards to regulate drone surveillance in our state. Before spying on you with a drone, police should have to go to a judge

and obtain a warrant based on probable cause, just like the Fourth Amendment of the Constitution promises. These rules are the same and have been in place for over 200 years. The judge's role is just an important part of traditional checks and balances. Oddly enough, I'll be joining Senator Patrick in supporting the Minority Report to require warrants for any non-emergency drone surveillance. I hope you will do the same.

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 Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, too, rise in opposition to the Majority Report. I've had a number of discussions with different people on this and I had to conclude that this is another example of technology getting ahead of our laws. I think that the challenge we've seen in the series of bills that we've dealt with the expectations for warrants have been established is that something that didn't used to exist has become easy. Because it's technology and easy we think it's just part of life. At some point that technology is an invasion of privacy and I think that we owe it to the people of Maine to decide where to draw that line. Who should decide on the use? In the Majority Report it appears that that is being decided by the police, the Criminal Justice Academy, the Attorney General, or the Chief Prosecuting Attorney. I have a problem with that not being the Judicial Branch that makes those decisions. I have problem with the kinds of uses that constitute an invasion of privacy not being something that we raise protections to right here. I think we need to draw the line around the technology and what constitutes an invasion of privacy. I think we need the Judicial Branch to decide on those uses, and I see warrants once again, and our expectation of a warrant for drone use for criminal investigations to be where to draw that line. I, therefore, support voting against the pending motion so we can get on to implementing that. Thank you.

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

Senator **TUTTLE:** Thank you Mr. President. Members of the Senate, I would hope that you would support the good Senator from York, Senator Valentino, the good Senator from Washington, Senator Burns, and myself on accepting the Majority Ought to Pass Report. As has been mentioned, the Majority Report places a moratorium on drones until proper use standards can be brought back to the Legislature in July 2013. It bans the use of weaponized drones or for surveillance of peaceful protests. It will allow the use of drones for activities that are allowed currently with other technology such as manned planes. Drones allow law enforcement, DMS, and the Department of Inland Fisheries and Wildlife to carry out activities they are already allowed to do in a cheaper and safer manner.

This is, I believe, a fair compromise that allows for the legitimate use of drones, including companies performing drone research and development, like the ones in my district, in the state and protecting individual personal liberties. I think when it comes to drones, which are essentially unmanned crafts, we are hardly into that period between invention and general acceptance.

That's why it would be hasty and unwise for the Maine Legislature, at this point, to place detailed restrictions on what police and state government can and cannot do with aircraft that happens to have no people aboard. That's why I agree with Attorney General Janet Mills' suggestion that the Legislature put a one year moratorium on the use of drones by police agencies until more thought can be given to their proper role in law enforcement. The bill is well-intentioned and would essentially require law enforcement to obtain the type of warrant they are required to seek when they search a home or vehicle.

There were attempts to anticipate how drones will be used, that alone raises a red flag, in my opinion. Testimony at the public hearing did not reveal that drones had been used, let alone abused, by any police agency in Maine. This type of legislation would seek to anticipate problems and solve them before they arise. I think that should concern all of us. The danger in the drone bill is that in our zeal to head off hypothetical problems we are likely to shut the door on discussion and experimentation that could lead to legitimate progress. In my opinion, there is no crisis. In fact, there are no drones. Let's go slowly and examine the issue over the next year and then develop appropriate regulations. That's why I would ask you to support the Majority Report. I also did talk to Tom Cruise today. He is in favor of the Majority Report. Thank you, Mr. President.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen, I just, very quickly, want to mention a couple of points. Fifty years ago who would have ever thought that we would use radar the way we do. DNA. Firearms identification. Look at those old movies where somebody got shot and they were lucky if they found the gun, let alone match the gun with the bullet. Technology has a way of advancing. GPS. Fifty years ago who would have ever thought we could GPS for solving crimes or be able to detect flammable liquids that were used in the arson, to burn down a building right flat to the ground. All this technology has come along and it's been used to a great extent, I would say almost exclusively, in a positive way. I would like to think that we can deal with this technology in a positive way also because it does have a lot of advantages, not just to our economy but also to the process of criminal investigation and preventing things from happening. I heard just a moment ago about that Minority Report. I've got to see that movie. We appreciate these inventions and this technology advance, but we're always leery of them, especially when we're concerned about our own privacy, and rightfully so. I guess that's why I'm kind of hearing a little bit of a disconnect here. I think everybody in this Chamber shares the same concern. That's why we need to put a moratorium on the use of that by our law enforcement, which is exactly what it is provided in the Majority Report, so that we won't go off half-cocked, so that it won't be used inappropriately.

I heard some suggestion of a technological ethic commission. The Maine Criminal Justice Academy has five civilian people on it. Would you have them put together a committee with all civilians, without law enforcement expertise or without the Attorney General or an attorney's expertise? I hope not. It sounds to me like there's a cross-section there and they are going to, if we pursue this in the Majority Report, process this whole idea. They are going to vet it out. They are going to come up with some criteria that will be vetted in front of us, once again,

and we'll decide up or down whether or not it's going to stand. This isn't going to be anything they are going to impose, to regulate, themselves. Once again, I really would ask you to support the Majority Report and let's do this right. Thank you, Mr. President.

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

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, I must say, sitting here listening to the debate, I'm stunned and I'm shocked. You would have thought that I had moved a Majority Report, An Act to Allow Drones Everyplace. From the tone that has been going on I did. I'm just shocked. If there is a problem with the drones we're addressing it in the Majority Report. I also want to say I'm sure you've all read the bill, word for word, but it does say that a law enforcement agency may not use an unmanned aerial vehicle to conduct surveillance on private citizens peacefully exercising their constitutional rights of free speech and assembly. It does allow for emergency use. It also states the board, in consultation with the Office of the Attorney General, shall establish written standards. It goes through, in the Majority Report, what the standards must include, at a minimum. I can read to you A through N if you'd like, all of the standards that we've put in there, but I will read at least one. "Restrictions on the use of night-vision technology, high-powered zoom lenses, video analytics, facial recognition technology, thermal imaging, and other such enhancement and technology." All of this is in the Majority Report.

I guess I would have to ask a question. When did the police, the Criminal Justice Academy, and the Attorney General become the bad guys? This is what I've been hearing. We don't trust them. We don't trust them. How many times do your committees look for other outside entities to help you to draft, whether it's the Department of Education or DEP or anybody else, and you have a study report that comes back? This is a moratorium we've placed so that nothing is going to happen. We are asking the Judiciary Committee, the one with the expertise, as a panel to come back, with the Attorney General, and give us this. What I'm hearing is that you're saying these people don't know what they're talking about, but you have more faith in the Minority Report, of those people who put together something on technology we really don't even have here in the state of Maine. A technology ethics panel, well that's jumping the gun a little. Let's find out what we're doing on the technology. The reality is that there is no fiscal note on this. All the meetings are going to be open to the stakeholders. They are all excited about going to the meetings on this. As far as technology getting ahead of the law, that's exactly why we're doing the moratorium. You're getting ahead of it in the Minority Report. They've written an entire statute in the Minority Report that doesn't even take into consideration anything that any of the experts that came before our committee said. We did not approve drones in the Majority Report. We put in a moratorium, and to come back and do a study next year; the same thing that everybody does in all of their committees when something is outside your expertise and you need help. That's all we did in the Majority Report.

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, one of the things, throughout the process, that we did find out was there were no drones in Maine during the public hearing. It was just about a week later the State Police did admit that we do have a drone that was used for training. There is one drone in Maine, at least. One of the things we're looking at within this bill, whether it's drones or any type of new modern technology, is the fact that for 200 years we have applied a standard, which is search warrants. For me, I think that's important because 50 years from now, no matter whether it's the good guys or the bad guys that have the technology, we still should make sure that we protect our constitutional rights. Technology is not always being used in a positive way. We just learned the NSA is sharing our call records all over the place. I remember about two years ago 60 Minutes talked about underneath Washington D.C. There is a city below that. There are millions of computers that are just zapping millions and billions and billions and trillions of megabytes of information. Hopefully it's about terrorists, and suspected terrorists, but there is also residual overlap that comes into play with the average citizen. I'm worried about the good guys. I don't want to hold back our police force, other than what's in the law already. Technology has changed over the last 200 years but the standard has not. For 200 years things have changed. The good Senator from Washington brought up many of the changes, but throughout those whole changes what stayed the same? Warrants, the Fourth Amendment.

Ladies and gentlemen, we're going to be talking about things 15 years from now beyond drones. Are we going to take away the right to protect citizens? I hope not. Buying new TVs. What are they thinking of doing otherwise than putting cameras in the TV to watch you so that advertising businesses will know what you're watching. That's coming in the future. Well, if advertisers can get the electronic surveillance, and the NSA has already got slapped for crossing the line, what else is going to happen if there is electronic surveillance, or any type of surveillance? I would say the vast majority of our law enforcement agents are great, but there are a few that cross the line. It happens all the time, and probably more than not because it doesn't get out but thanks to that one guy that brought forth the information. The big thing is I don't care what type of technology we're talking about, right now it's drones and in the future it's going to be something else. Right now an average citizen could get a drone and we have drones used in war. Some time there are going to be drones the size of probably the head of a pin flying around; we don't even know they are there. We've got to make sure that we protect the average citizen's rights. I think that's in the Minority Report. I would ask you to reject the Majority Report and we'll go onto the Minority Report and then we can talk about whether or not we're going to put a moratorium on that. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, first of all I want to again thank the good Senator from York for the incredible amount of hours put into this bill, even though I reach a different conclusion, and my colleague from Washington, Senator Burns, for the same. I'm impressed with the effort that they have made to try to put together a group to come up with some standards by which we would decide how we are going to deal with drones. I rise really to echo the comments of

my friend from Oxford, Senator Patrick, because, from my perspective, that work has been completed. It was done by the framers of the Constitution when they decided what the standards were going to be for instances when the government was going to intrude on our personal privacy. At that time they were thinking about homes and businesses. They weren't thinking about, certainly, drones. To me, the principles are the same. I'd just like to reflect on what we have done so far in this Legislature, a record I think we should be very proud of. We've decided, already, that before the government is permitted to track our location through the use of our cellphones they must show a good reason for doing it, as determined by a judge. We voted that before the government can get access to our text messages and our e-mail messages through our smart phones that the government has to show a good reason, as determined by a judge. We very recently decided that before the government can get access to our medical records that they have to show a good reason, as determined by a judge. Here we're dealing with a fourth in a series of bills which, at least to this Senator, is the most intrusive of all, being literally spied upon from above by a drone, which may be a large airplane-like thing that we can easily see but it may be as small as an insect. I think, to be consistent with what we've already done or even more than the others, before the government ought to be able to invade our personal privacy by literally spying on us from above they have to have a good reason and the entity that determines the good reason isn't the police, isn't the Attorney General, but is a judge. Although there may be lots of ways that the law enforcement ought to come with rules and regulations about how to operate within that context, the basic idea that the government cannot intrude on our privacy without a warrant is just as true today as it was when the framers were back in the 18th Century. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Valentino to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (S-281) 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 (#302)

YEAS: Senators: BOYLE, BURNS, CUSHING, DUTREMBLE, FLOOD, HAMPER, JACKSON, MASON, PLUMMER, SAVIELLO, TUTTLE, VALENTINO, WHITTEMORE, YOUNGBLOOD

NAYS: Senators: CAIN, CLEVELAND, COLLINS, CRAVEN, GERZOFISKY, GOODALL, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MAZUREK, MILLETT, PATRICK, SHERMAN, THIBODEAU, THOMAS, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

14 Senators having voted in the affirmative and 21 Senators having voted in the negative, the motion by Senator **VALENTINO** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-281)** Report, **FAILED**.

The pending question before the Senate is Acceptance of the Minority Ought to Pass as Amended by Committee Amendment "B" (S-282) Report.

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

Senator **VALENTINO:** Thank you very much Mr. President. I just wanted to speak to the Minority Report, if that is permissible. It was mentioned that there was a drone that was bought in the state of Maine. That drone was for \$299 and it was bought on Amazon.com. I want to call your attention, I'm sure you've all read the bill, that in the Minority Report an unmanned aerial vehicle means an aircraft that is operated without a physical human presence with or on the aircraft and that is guided by remote control. Therefore, if this bill passes, every single toy that is out there right now that is guided by remote control will not be allowed to be sold in the state of Maine. I also want to congratulate everybody who voted for the bill because you voted to arm drones over the state of Maine because the Minority Report says that armed drones can be used in the state of Maine. The Majority Report never said that.

On motion by Senator **VALENTINO** of York, 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 very much Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, the unmanned aerial vehicle, the same UAV, is guided by remote control. That is the industry definition used in the Minority Report. They may not use facial recognition technology or be equipped with a weapon except for research and development. That was for businesses in Maine that have federal contracts to make sure that they were protected so that they could have the business in Maine. What the Minority Amendment does is require police to get a warrant based on probable cause, just like the Constitution says, before conducting drone surveillance. It requires the police to tell you if you are being tracked. It gives you an opportunity to go to court and present your position to the court. It also has a section in it where you can actually seek regress, which I think is important because if someone doesn't use a warrant there is an avenue where you can actually go and make sure that you can get your regress. I don't necessarily believe that it's going to take every single hobbyist drone away as we're talking about the sections of law that deal with law enforcement. I don't believe at all that it's going to have any effect on the hobbyists. I would ask for your support on the motion and then I will be offering an amendment later on. Thank you.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, in regards to the comments about what is or is not in this report, I just want to draw your attention, in addition to the comment about equipping for facial recognition or weapons, that under number one, acquisition of unmanned aerial vehicles, the

only restriction it places on acquiring unmanned aerial vehicles is by a law enforcement agency, that it must be approved by the governing body. That's not going to stop a hobbyist from buying one. The restrictions on operation are in regards explicitly to law enforcement activities. It's not going to stop a hobbyist from using a model airplane or helicopter either. I think that there are a number of exceptions in here as well that addresses some of the things that I've heard in the course of discussing this bill before arriving here that are appropriate public uses. The administrative investigation exception allows an unmanned aerial vehicle to be operated to investigate and respond to natural disasters; to monitor the status of dams and flood control systems; and to conduct surveys, including but not limited to surveys conducted by the Maine Geological Survey. I kind of interpret that that, to me, surveys, not being limited to that means that if you really did want to do forest fire surveillance, if you did want to look at fire danger, and any of those sorts of things that that would be a permitted use. To aide in weather forecasting or conduct search and rescue activities. I think that this is quite a good balance of permitted uses, who it restricts, being law enforcement and law enforcement activities, and that it actually requires a warrant for that. I hope you will support me by voting for the Minority Report. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. I'd like to more clearly state what I had tried to get across before. The amendment creates a private right of action against the law enforcement agency for violations of the new law. A person may collect compensatory damages plus up to \$5,000 for reasonable attorney fees and court costs. What is the difference between the A Report and the B Report, Mr. President? When we're talking about the A Report, there was a break on the last day of committee where there was actually the bill before us, Mr. President, and the stakeholders on Committee Amendment B are the same stakeholders that were in the other report that we're now not talking about. The things within both reports, basically, were the same things that the stakeholders all came together with until the very break and that break actually came in relationship to, more or less, the AG's decision to fight the need for warrants. I think both reports were pretty decent for what they were trying to do, but the Minority Report is more in line with what I think the citizens of the state of Maine wanted, and that's to protect the Fourth Amendment rights. With that I thank you, Mr. President.

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

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would just add that I think the good citizens of the state of Maine put a lot of trust in their law enforcement and in their Attorney General's Office and I think they put more trust in some special interest groups that would have us completely tie our hands behind our back. That would suit them just fine. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Minority Ought to Pass as Amended by Committee Amendment "B" (S-282) 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 (#303)

YEAS: Senators: BOYLE, CAIN, COLLINS, CRAVEN, DUTREMBLE, GERZOFSKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, KATZ, LACHOWICZ, LANGLEY, MAZUREK, MILLETT, PATRICK, SHERMAN, THIBODEAU, THOMAS, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, CLEVELAND, CUSHING, FLOOD, HAMPER, MASON, PLUMMER, SAVIELLO, TUTTLE, VALENTINO, WHITTEMORE, YOUNGBLOOD

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (S-282)** Report **ACCEPTED.**

READ ONCE.

Committee Amendment "B" (S-282) **READ.**

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-285) to Committee Amendment "B" (S-282) **READ.**

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment imposes a moratorium until July 1, 2015 on the use of unmanned aerial vehicles by law enforcement agencies. The moratorium does not apply to specified emergency situations. I think the one thing that I do agree with is the need for a moratorium and I think, realistically, having a two year moratorium is the way to go. It will give us plenty of time to look at what we're going to do in the future. Thank you.

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

Senator **VALENTINO:** Thank you very much Mr. President. Members of the Senate, I just want to say this amendment is an insult to the discussion that we have just had over an hour and a half on a Majority Report that puts on a moratorium, that you voted against. I hope the headline reads tomorrow, "Senate Votes to Arm Drones Over Northern Maine." This is an insult to the Judiciary Committee. This is an insult to the three Senators that were on the Majority Report. This is an insult to the Chair of the Committee. To talk for two hours against a moratorium and then pass the bill and put a moratorium on.

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Adopt Senate Amendment "A" (S-285) to Committee Amendment "B" (S-282). A Roll Call has been ordered. Is the Senate ready for the question?

On motion by Senator **GOODALL** of Sagadahoc, **ADJOURNED** to Tuesday, June 18, 2013, at 10:00 in the morning.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#304)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, COLLINS, CRAVEN, GERZOFKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MILLETT, PATRICK, SHERMAN, THOMAS, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, CUSHING, DUTREMBLE, FLOOD, HAMPER, KATZ, LANGLEY, MASON, MAZUREK, PLUMMER, SAVIELLO, THIBODEAU, TUTTLE, VALENTINO, WHITTEMORE, YOUNGBLOOD

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **PATRICK** of Oxford to **ADOPT** Senate Amendment "A" (S-285) to Committee Amendment "B" (S-282), **PREVAILED**.

Committee Amendment "B" (S-282) as Amended by Senate Amendment "A" (S-285) thereto, **ADOPTED**.

Senator **TUTTLE** of York **OBJECTED** to **SUSPENSION OF THE RULES** for the purpose of giving this Bill its **SECOND READING** at this time.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Senator **GOODALL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

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

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

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