

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

In Senate Chamber  
Wednesday  
June 17, 2015

In House, June 16, 2015, **RECALLED** from the Governor's Desk, pursuant to Joint Order (H.P. 989).

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-115)**.

On motion by Senator **MASON** of Androscoggin, the Senate **RECEDED** and **CONCURRED**.

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

Prayer by Father James Gill of Winthrop.

**FATHER GILL:** Good morning. I invite you to join with me in prayer. Loving God, You have given us wonderful gifts of memory, reason, and skill. Today we ask for Your guidance as we use these gifts of yours in this place of governance. Thank You for memory. Help us to use our memories in order to avoid past mistakes as well as to call to mind past victories in Your causes. Thank You for reason. Help us to use our mental capacities to sort out what is logical and true from all false and biased options that may come before us. Thank You for skill. Help us to use this learned ability to bring about the outcomes we desire, truthfully, from what You have given us to work with. Above all, thank You for Your spirit as we use these gifts, gifts of memory, reason, and skill, in the decisions we make in this place today. Amen.

Pledge of Allegiance led by Senator Kimberley C. Rosen of Hancock County.

Reading of the Journal of Tuesday, June 16, 2015.

Doctor of the day, James Hildebrand, MD of Orono.

Off Record Remarks

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Extend the Funding Period for Landfill Closure Costs"

H.P. 404 L.D. 580  
(C "A" H-115; S "B" S-182)

In Senate, June 10, 2015, **PASSED TO BE ENACTED**, in concurrence.

**ORDERS OF THE DAY**

Out of order and under suspension of the Rules, The Chair laid before the Senate the following Tabled and Later Assigned (2/5/15) matter:

JOINT RESOLUTION - Memorializing Roger Majorowicz of Whitefield

SLS 94

Tabled - February 5, 2015, by Senator **JOHNSON** of Lincoln

Pending - motion by same Senator to **ADOPT**

(In Senate, February 5, 2015, **READ**.)

**READ.**

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

Senator **JOHNSON:** Thank you, Mr. President. It's my honor today on this occasion to speak about the life and contributions of Roger Majorowicz; veteran, artist, teacher, father, husband, and friend. You heard already in the words of this memoriam some of the history. I want to expand upon that a little bit. Prior to moving to Maine in 1981, Roger spent two decades teaching sculpture at the Maryland Institute. He truly loved teaching and loved his artwork. He left many works of art behind in that area. The places in the world that, in museums and galleries, feature his art include Carrara, Milan, Spoleto and Rome, Italy; Munich, Germany; and New York, Chicago, Los Angeles, Washington, D.C., and many other cities in the United States. He's created over 40 public commissions around the U.S., most of them monumental in scale. Many of his sculptures can be seen in schools, public buildings, and libraries throughout Baltimore. Here in Maine, some of you may have had the opportunity to appreciate his work across the state, from the South Berwick Middle School to the Elementary School of Fort Fairfield. In this area, his work is featured at the Laura Richards School in Gardiner, the Whitefield Elementary School in my own school district, and the University of Maine at Augusta. In my travels in my district I often go by Roger's home and Iron Horse Sculpture Studio along the Sheepscot River and its fields, enhanced by many of his engaging sculptures, never fail to catch my eye. Over 30 feet tall, some of them with moveable parts. He drew inspiration from many sources, including mystical themes, his western heritage, the human figure, and the landscape. He was happiest when he was making art in his own studio, with doors wide open on a beautiful summer day. His ideas about art always came back to his own vision of the world and his need to express

himself in three dimensions. His art evokes words like integrity, strength, and always harken back to the basic elements of wind, earth, and fire. His wish was that he would be remembered by his family and friends when they make or buy a piece of art, visit a gallery or a museum, or give a word of encouragement to an artist. At his core, Roger was an artist. He believed that art captured the meaning of life and made the world a better place. I think the world would be far less interesting without art such as Roger's that will continue to grace many places here in Maine and around the world for all of us to enjoy. Thank you, Roger, for your passion and energy for art and teaching. You'll be missed. Mr. President, I ask that when we adjourn today we do so in memory and lasting tribute to Roger Majorowicz. Thank you, Mr. President.

On motion by Senator **JOHNSON** of Lincoln, **ADOPTED**.

Sent down for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize Roger Majorowicz's widow, Mary Majorowicz, and friends that have gathered. Would they please rise and accept the condolences of the Maine Senate.

---

Out of order and under suspension of the Rules, the Chair laid before the Senate the following Tabled and Later Assigned (4/14/15) matter:

JOINT ORDER - Expression of Legislative Sentiment  
Recognizing Charlotte Janelle of Falmouth  
SLS 269

Tabled - April 14, 2015, by Senator **BREEN** of Cumberland

Pending - motion by same Senator to **PASS**

(In Senate, April 14, 2015, **READ**.)

**READ.**

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

Senator **BREEN:** Thank you, Mr. President. Good morning. Men and women of the Senate, it's my pleasure to rise today to honor a young woman athlete from my community of Falmouth. Her name is Charlotte Janelle. Before I sing Charlotte's praises, though, I want to recognize her father, Pierre, who is a fourth generation innkeeper in Old Orchard Beach, the owner of the Edgewater Hotel. Charlotte's mother, Katie, also owns her own business and gives generously of her time and talent to numerous organizations in our community. In addition, joining Charlotte today is her coach, Mike Bartley.

Now on to Charlotte. When I first met Charlotte many years ago she was an energetic and talented gymnast. In gymnastics she had found her thing. Tumbling, swinging, jumping, showing enormous strength and flexibility on the gym floor, the beam, and the uneven bars. Then in the sixth grade Charlotte experienced a life changing accident and injury in gymnastics. She and her family were devastated, as we can all understand. After years of

hard work, her dreams were put on hold. As we all know, in life as one door closes another opens. Charlotte decided to try another sport that would draw on her talents and experience in gymnastics, diving. Charlotte threw herself into this new venture with all the determination she had. As a freshman at Falmouth High School, that worked paid off. In her first year of competitive high school diving Charlotte won the Girls' State Championship and then in her sophomore year Charlotte won the Girls' State Championship in diving and then during her junior year, this past winter, again Charlotte won the Class A State Championship for the third straight year. The word that comes to my mind is phenom. Charlotte has become a force in girls' diving and has made an enormous difference in this sport in the state of Maine. Given Charlotte Janelle's remarkable capacity to turn tragedy into triumph, I'm genuinely proud to represent her and her family in the Maine Senate. Mr. President, I hope you will join me in congratulating Charlotte and wishing her well in her future endeavors.

On motion by Senator **BREEN** of Cumberland, **PASSED**.

Sent down for concurrence.

**THE PRESIDENT:** The Chair is pleased to recognize in the rear of the Chamber Charlotte Janelle of Falmouth; her parents, Pierre and Katie Janelle; her coach, Mike Bartley. Would they please stand and accept the greetings of the Maine Senate.

---

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

---

## COMMUNICATIONS

The Following Communication: H.C. 241

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

June 16, 2015

The Honorable Heather J.R. Priest  
Secretary of the Senate  
127th Maine Legislature  
Augusta, Maine 04333

Dear Secretary Priest:

House Paper 274, Legislative Document 408, "An Act To Help Municipalities Prepare for Changes in Sea Level," having been returned by the Governor, together with objections to the same, pursuant to Article IV, Part Third, Section 2 of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

87 voted in favor and 60 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Robert B. Hunt  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

---

Senate at Ease.

Senate called to order by the President.

---

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve Childhood Vaccination Rates in Maine"

H.P. 310 L.D. 471

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-426).**

Signed:

Senator:  
HASKELL of Cumberland

Representatives:  
GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
HEAD of Bethel  
HYMANSON of York  
PETERSON of Rumford  
STUCKEY of Portland  
VACHON of Scarborough

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

Signed:

Senators:  
BRAKEY of Androscoggin  
McCORMICK of Kennebec

Representatives:  
MALABY of Hancock  
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-426).**

Reports **READ.**

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE.**

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

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I am rising to oppose the current motion, Ought Not to Pass, and I'm going to ask you if you would please vote against it. I think that the importance of vaccines to our general public health is a matter of a lot of interesting concern for us. On the committee, there was also a lot of conversation regarding the types of oppositions that people have to immunizations. Those oppositions were for philosophical reasons. The committee did, at great length, debate this issue, but it was clear that there are a number of our schools at which, while the overall school rate was acceptable, there are outliers. There are a number of our schools where the vaccination rates have taken a very significant dip and it's been of concern to those schools and to the parents of the kids who are in those schools. Vaccinations are a public health issue. We do understand that there are people who would like to, for philosophical reasons, opt out of vaccinations. The committee respected that. The amendment, that is Committee Amendment "A" here in the bill, says that a parent seeking a philosophical exemption must include a statement with written documentation signed by a healthcare practitioner that's authorized to prescribe and administer immunizations verifying that that practitioner has reviewed with the parent information about the risks and benefits of immunization consistent with CDC information. It doesn't prescribe what that provider has to say. It doesn't indicate that the parent has to agree or that they have to have a discussion, simply that they have seen a healthcare practitioner, and that can be anybody who is able to prescribe or able to do a vaccination. That's a wide, broad number of health providers. It's a very straightforward method by which parents can become engaged and informed without removing that philosophical exemption. I think that was a very carefully crafted compromise and I would urge you to vote against the Ought Not to Pass Report. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I rise today to support the Ought Not to Pass Report on L.D. 471. Of all the legislation we have heard public testimony on in the Health and Human Services Committee this session, aside from the budget itself, this bill had by far the longest public hearing we experienced. We heard hours of testimony by staunch opponents

of this bill, as well as staunch proponents. We heard from medical professionals on both sides of this issue. We even heard from Robert F. Kennedy, Jr., who came to Maine specifically to testify on his concerns about this legislation. In all that testimony there was much disagreement on the extent to which there are potential negative health consequences for some people as a result of certain vaccinations. Every medical professional and every person there seemed to agree that, just like every medicine or pharmaceutical, there are some potential negative health side effects for some people. The extent of those side effects was a matter for debate, but everyone agreed that some of those did, in fact, exist. In fact, there is a federal program, the Vaccine Injury Compensation Program, specifically set aside for individuals with severe negative outcomes from vaccines they received.

One of the repeated refrains we heard from opponents of this bill was, "Where there is risk there must be choice." This bill would put up barriers to the free choice of parents to make the best decisions they can for their children and I am uncomfortable supporting that. During his testimony before our committee, Robert F. Kennedy, Jr. highlighted an ongoing corruption scandal taking place right now at the federal CDC around the withholding of risk information from the public. There are concerns about the integrity of the approval process for these products of these pharmaceutical corporations. Public hearings are, in fact, currently scheduled for later this year around this ongoing scandal.

Myself, personally, believe that, on the net whole, vaccines have had a tremendous benefit for people, but we must also acknowledge that there are some problems with the current structure of the industry around vaccines. Vaccines are one of the few products that have a particular designation from the federal government. They are considered, "Unavoidably unsafe." What this essentially means is that the federal government has decided that there is an inherent danger to some for vaccines, but those dangers are unavoidable. This gives the pharmaceutical companies that produce these vaccines complete immunity from all legal liability in the event of negative health outcomes. Now think about that for a moment. If we, as individuals, were buying a car and we had two choices. Both cars were identical in every way except for one major difference. The first car was manufactured by a company with full legal liability in the event that their produce malfunctioned and injured you. The second car was manufactured by a company that had no liability. If that car malfunctioned, if the brakes suddenly gave out, that company would not be on the hook for any damages. Let us ask ourselves: which car would I buy? Would it not be obvious that the company with full liability has much more reason to take extra precautions to ensure the safety of their product?

Furthermore, the premise for this bill was based on data that suggested Maine's unvaccinated rate was particularly high and risked us dropping below what's considered herd immunity levels. However, as we worked through this bill, it was found that the data was wrong. In fact, that data had to be revised during the process that this bill was being considered. It turns out that the statewide vaccination rates are significantly higher than what was initially suggested by the data and we are well over the herd immunity thresholds. I have some of this data here, but I'm not going to go over it unless anyone wanted me to. I think what this really points to is that the system, as we have it, is currently working. We're well over the herd immunity thresholds. Why would we want to fix something that isn't broken and seems to be working?

I will say, just as a last point on the issue around the structure of the vaccine industry and the complete immunity from all legal liability for the manufacturers, the Health and Human Services Committee unanimously drafted a letter to encourage the federal government to look at changing the structure. Everyone on the committee recognized that that is, potentially, a real problem. I just say, while that problem exists, I'm not comfortable putting this barrier up to parental choice. Thank you very much, Mr. President.

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

Senator **JOHNSON:** Thank you, Mr. President. I just wanted to speak briefly on this matter and point out that someone speaking with their doctor, not having to get permission from the doctor but merely speak with them, is not a profound barrier. In fact, it's good advice. The choice is still the person's. That choice is not being taken away from them. Where there is risk there is still choice. I think that this is a very reasonable measure. It is not placing a burden on people who want to make that choice for themselves, whichever way. It does help ensure that they have information from a health professional. Of course they are welcome information for whatever other sources they want, and they are welcome to make their own decisions still. That's not changed by this bill. Thank you.

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen, first I do apologize for my mis-statement earlier, Mr. President. Since we have now spoken regarding the immunization rates, I would just point out to you that in 2013 an estimated 68% of Maine children from 19 months to 35 months were up to date on the full recommended series. That's 68%. That's the seventh lowest in the country, compared with 73% in 2012. Maine's immunization rates for kindergarteners have increased in each of the past several years, that's the exemption rates, resulting in Maine having the fifth highest rate of immunization exemptions in the United States. The trend in both of those is not moving in the right direction and I believe that it is time for us to very cautiously and very carefully move forward with this bill. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I apologize for rising a second time. I will be very brief. The data we have on compilation of kindergarten vaccination rates and exemptions, as reported by the CDC, for kindergarteners in 2014 - 2015 polio vaccine 95.62%; DtaP vaccine 95.54%, MMR vaccine 92.14%, Varicella vaccine 95.71%. These are well over the herd immunity threshold we heard from in the committee and the philosophical exemption is only 3.69%. That philosophical exemption includes anyone using the philosophical exemption for any individual vaccine. You could be receiving all the vaccines except for one and you would be in that 3.69%. Thank you very much.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to

Accept the Minority Ought Not to Pass Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#272)**

YEAS: Senators: BRAKEY, BURNS, COLLINS, DAVIS, EDGECOMB, HAMPER, LANGLEY, MASON, MCCORMICK, MIRAMANT, WHITTEMORE, WILLETTE, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BAKER, BREEN, CUSHING, CYRWAY, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LIBBY, MILLETT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WOODSOME

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-426) **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 Bill "An Act To Allow a Patient To Designate a Caregiver in the Patient's Medical Record"

H.P. 447 L.D. 666

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-432)**.

Signed:

Senators:

HASKELL of Cumberland  
McCORMICK of Kennebec

Representatives:

GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
HEAD of Bethel

HYMANSON of York  
MALABY of Hancock  
PETERSON of Rumford  
SANDERSON of Chelsea  
STUCKEY of Portland  
VACHON of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-433)**.

Signed:

Senator:

BRAKEY of Androscoggin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)**.

Reports **READ**.

On motion by Senator **BRAKEY** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-432) **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-432)**, in concurrence.

---

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

---

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Children and the Public from Electronic Cigarette Vapor"

H.P. 769 L.D. 1108

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-428)**.

Signed:

Senator:

HASKELL of Cumberland

Representatives:

GATTINE of Westbrook  
BURSTEIN of Lincolntonville  
HAMANN of South Portland  
HYMANSON of York  
PETERSON of Rumford  
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 "B" (H-429)**.

Signed:

Senators:

BRAKEY of Androscoggin  
McCORMICK of Kennebec

Representatives:

HEAD of Bethel  
MALABY of Hancock  
SANDERSON of Chelsea  
VACHON of Scarborough

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)**.

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-429)** Report, in **NON-CONCURRENCE**.

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

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, Committee Amendment "B" speaks about the protection of children in the public from electronic cigarette vapor which includes nicotine in it that's not just a harmless water vapor. Amendment "B" is restricted to only three locations. That would be hospitals, schools, and daycares. I believe that's a very limited number of places where we would want to be able to go without having nicotine smoke blown in our faces or available for our children to breathe. I would respectfully request that you reject Report "B" so we can move on to Report "A" and we can discuss where those electronic nicotine delivery devices should be used besides hospitals, schools, and daycares. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I rise in support of the pending motion. As my colleague from Cumberland has

pointed out, this report would restrict the use of electronic nicotine delivery devices, also known as E-cigarettes, in hospitals, schools, and daycares. There was some desire to go further than that, however, the testimony that represented the evidence we were presented with about potential dangers on this was not very conclusive. We were not presented with any very conclusive evidence on that. In fact, it was presented to us in the regard of, "Well, you have to prove to us that it's not dangerous." If anyone has taken Logic 101, you can't prove a negative. The burden of proof is on the side who wants to essentially ban this in many locations to demonstrate that there is real, scientifically proven harm. That was not demonstrated.

We did feel comfortable, however, considering that to move forward with three places that are particularly acute situations: hospitals, schools, and daycares. We did feel comfortable going forward with a policy to restricting those places, but, jumping forward without sufficient scientific evidence demonstrating harmfulness, we did not feel comfortable setting a blanket policy for everything. I encourage the passage of the current Ought to Pass as Amended Report.

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

Senator **BAKER:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today to urge you to vote against the current motion and support an Ought to Pass as Amended by Committee Amendment "A" motion. I respect personal choice. I respect personal rights. I recognize that the E-cigarettes have been an incredible asset with regard to smoking cessation. However, as an asthmatic and a COPD patient, I cannot support someone else's choice, someone else's right, and putting my life at risk and putting the lives of other people at risk. E-cigarettes are not regulated and they have been shown to contain numerous chemicals which can be hazardous. The vapor is going to be reactive for some people and not others. Many individuals with already compromised health are affected by these aerosol compounds. Additionally, asthma is seriously affected by anxiety and stress, particularly in children. The mere sight of an E-cigarette and its vapor can have enormous effects on someone with asthma. How will that vapor affect me? What will the effects be? How severe will my attack be? Will my rescue inhaler be enough to help me? What is potentially harmful to many of you is definitely harmful to many people like me. I ask you to ban these E-cigarettes in all places where cigarettes are banned. I strongly urge you to vote against the current motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Mr. President. First, Mr. President, I believe the board is showing that Report "A" is being moved and I believe it's Report "B".

Smoking bothers me an awful lot. When I got out of the Army in 1968 I was smoking three packs a day. I went cold turkey to get out of it. Unfortunately, my brother and my father didn't and they both died of lung cancer, my brother very recently. I was here in this Body when a bill came in to ban smoking in restaurants and I voted for it. It didn't endear me to some restaurant owners very much, but the cooks, the waiters, the waitresses, the dishwashers; I had a number of them call me and thank me for doing it. One of the reasons why I did it, and why I

voted that way, was because children go to restaurants. They don't have any choice. The parents take them there. Reading this handout from the Cancer Action Network seems to me, if you read it, there's a bunch of things in these things that aren't very good. I guess I would urge you all to vote against the pending motion and pass Report "A". Thank you, Mr. President.

**THE PRESIDENT:** Just a clarification. The board is correct. It is the Minority Report that we are voting on. It is Report "B". The board is correct. The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise before you in opposition to the pending motion. We're here to ensure that we pass laws that keep our constituents and general public safe. This is why we impose laws such as speed limits and other laws. This bill before you is one that will aide in public safety. I think we can do better than the current amendment under discussion. We have already banned the use of cigarettes in public places because they have been proven to be unhealthy to those exposed to secondhand smoke. The chemicals used in E-cigarettes are quite disturbing. This list includes Propylene Glycol, nicotine, certain metals, volatile organic compounds among others. The effects of these chemicals on the user and any bystanders are continuously being studied. A 2009 study done by the FDA found cancer causing substances in several of the E-cigarette samples tested. This is disturbing considering that E-cigarettes are currently allowed in public places. As a concerned citizen of this great state, I want to be able to go to a restaurant with my family and not be exposed to a dangerous substance. As a legislator, I want to pass legislation that will help in keeping my constituency healthy and safe. Teenage use has grown three times in the last few years due to E-cigarettes being introduced. For these reasons, I urge you to follow my light when voting on L.D. 1108. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (H-429) Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#273)**

**YEAS:** Senators: BRAKEY, CUSHING, EDGECOMB, HAMPER, MASON, MCCORMICK, WILLETTE, WOODSOME

**NAYS:** Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WHITTEMORE, THE PRESIDENT - MICHAEL D. THIBODEAU

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-429)** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-428) **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-428)**, in concurrence.

---

**Divided Report**

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Grocery Stores under 10,000 Square Feet To Be Open on Sundays"

H.P. 589 L.D. 855

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

Signed:

Senators:  
VOLK of Cumberland  
CUSHING of Penobscot

Representatives:  
AUSTIN of Gray  
LOCKMAN of Amherst  
STETKIS of Canaan  
WARD of Dedham  
CAMPBELL of Newfield

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

Signed:

Senator:  
PATRICK of Oxford

Representatives:  
HERBIG of Belfast  
BATES of Westbrook  
FECTEAU of Biddeford  
GILBERT of Jay  
MASTRACCIO of Sanford

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

Reports **READ**.

**ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On motion by Senator **VOLK** of Cumberland, the Majority **OUGHT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

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

Ordered sent down forthwith for concurrence.

---

**Divided Report**

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Work Permitting Process for Minors"  
H.P. 943 L.D. 1393

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

Signed:

Senator:  
PATRICK of Oxford

Representatives:  
HERBIG of Belfast  
BATES of Westbrook  
CAMPBELL of Newfield  
FECTEAU of Biddeford  
GILBERT of Jay  
MASTRACCIO of Sanford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-437)**.

Signed:

Senators:  
VOLK of Cumberland  
CUSHING of Penobscot

Representatives:  
AUSTIN of Gray  
LOCKMAN of Amherst  
STETKIS of Canaan  
WARD of Dedham

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

Reports **READ**.

Senator **VOLK** of Cumberland moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to

---

**Divided Report**

Seven members of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Strengthen the Economic Stability of Qualified Maine Citizens by Expanding Coverage of Reproductive Health Care and Family Services"  
H.P. 213 L.D. 319

Reported in Report "**A**" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-243)**.

Signed:

Senator:  
HASKELL of Cumberland

Representatives:  
GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
HYMANSON of York  
PETERSON of Rumford  
STUCKEY of Portland

Three members of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-244)**.

Signed:

Senator:  
BRAKEY of Androscoggin

Representatives:  
HEAD of Bethel  
MALABY of Hancock

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

Signed:

Senator:  
McCORMICK of Kennebec

Representatives:  
SANDERSON of Chelsea  
VACHON of Scarborough

Comes from the House with Report "**A**" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-243)** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-243)**.

Reports **READ**.



Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** Report "B" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-244)**, in **NON-CONCURRENCE**.

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

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

Senator **HASKELL:** Thank you very much, Mr. President. Committee Amendment "B" is significantly different than other reports. Committee Amendment "B" changes the title of the bill to Resolve, the Department of Health and Human Services to Convey to the U.S. Food and Drug Administration Support of the Recommendations of the American College of Obstetricians and Gynecologists Regarding the Sale of Over-the-Counter Oral Contraceptives. I think this is pretty far away from the significant intent of this bill and I also think that the Resolve to Support Over-the-Counter Sales of Oral Contraceptives may be premature and unwise at this point. I would urge you to reject this so we could go on to speak about other reports in this matter. Thank you.

---

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

---

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

Senator **BRAKEY:** Thank you, Mr. President. I rise to support the pending motion. I won't belabor the point too much, but everyone should have gotten a copy of the committee opinion of the American College of Obstetricians and Gynecologists, which is in front of you. This report would essentially direct the department to set up a process by which to implement this if the FDA does take the advice of the American College of Obstetricians and Gynecologists and expresses the support of the department for adopting that. If you look at the committee opinion from the American College of Obstetricians and Gynecologists they state weighing the risks versus the benefits based on currently available data oral contraceptives should be available over-the-counter. This is basically what we're talking about, the traditional birth control pill, which has been around for over half a century, been tried and tested. These doctors believe that this is a strong way we can increase access to birth control, bring down the cost for people, and this is a way we can do it while harnessing the free market in a way to do that. I think this is a strong message to send as the federal government looks at this and I hope that by passing this report today we will send a strong message to the federal government so that they, the FDA, will make this change and increase access for women. Thank you very much.

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

Senator **GRATWICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, just very briefly on this topic. I appreciate what the good Senator from Androscoggin has brought forward to us, but it really is a totally different bill, a different concept. I'd be delighted to work on this in detail. The Senator made reference before to Logic 101 that he's taken in the past, but there really is a significant jump from what we're discussing right now and Logic 101. I don't think it incorporates this kind of a jump. I would strongly urge that this be defeated, this amendment be defeated, at this time, that we bring it up next time for full consideration because I think there's great merit to this, but it really has to be talked about thoughtfully and then we get back to the business at hand, the bill under consideration. Thank you, sir.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to Accept Report "B" Ought to Pass as Amended by Committee Amendment "B" (H-244), in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#274)

YEAS: Senators: BRAKEY, BURNS, CUSHING, DAVIS, EDGECOMB, HAMPER, MASON, MCCORMICK, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BAKER, BREEN, COLLINS, CYRWAY, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** Report "B" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-244)**, in **NON-CONCURRENCE, FAILED**.

The Chair moved the Senate **ACCEPT** Report "C" **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**.

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

Senator **HASKELL:** Thank you very much, Mr. President. I would respectfully request, ladies and gentlemen of the Senate, that we reject the Ought Not to Pass Report so that we may go on and discuss the substance of the bill as it was presented to us and as it was reported out. Thank you.

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

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

Senator **BREEN:** Thank you very much, Mr. President. I just want to speak for a moment against the pending motion. L.D. 319 is a commonsense approach to both spending and women's health and economic opportunity. The policy creates stronger families with proven cost savings for taxpayers and state government. It ensures low income women, below 209% of the federal poverty level, have access to critical disease prevention and essential health services, including lifesaving cancer screenings, annual exams, contraception, prevention, testing and treatment for sexually transmitted diseases, breast healthcare, and pap tests. Maine would join 30 other states that are benefiting from significant cost savings in their Medicaid programs by directing the Maine Department of Health and Human Services to submit a family planning state plan amendment to the federal centers for Medicaid and Medicare services. Low income women are more than five times as likely to experience an unintended pregnancy as women at the highest income level. This is associated with higher rates of poverty, less family stability, and worst outcomes for children. If we defeat this report this bill gives us a tool to prevent unintended pregnancies, support healthy birth spacing, reduce health disparities, and lower maternal morbidity. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is Acceptance of Report "C" Ought Not to Pass, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#275)**

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGECOMB, HAMPER, MASON, MCCORMICK, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, **ACCEPTANCE** of Report "C" **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**, **FAILED**.

Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-243) ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-243) **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-243)**, in concurrence.

Ordered sent down forthwith.

---

**Senate**

**Ought to Pass As Amended**

Senator ROSEN for the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Expand Maine's Carbon Monoxide Detectors Law"

S.P. 216 L.D. 623

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-290)**.

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

**READ ONCE.**

Committee Amendment "A" (S-290) **READ** and **ADOPTED**.

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

Sent down for concurrence.

---

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Strengthen Laws Regarding the Manufacture and Sale of Methamphetamine and Other Drugs" S.P. 451 L.D. 1246

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

Signed:

Senators:  
ROSEN of Hancock  
BURNS of Washington

Representatives:  
GERRISH of Lebanon  
LAJOIE of Lewiston  
LONG of Sherman  
NADEAU of Winslow  
THERIAULT of China  
TIMMONS of Cumberland  
WARREN of Hallowell

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-281)**.

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

FOWLE of Vassalboro

CHENETTE of Saco

DAVITT of Hampden

Reports **READ**.

On motion by Senator **ROSEN** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)** Report **ACCEPTED**.

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-280)**.

Sent down for concurrence.

---

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

---

**Divided Report**

The Majority of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Restructure the Permitting Process for Wildlife and Exotic Species in Captivity"

S.P. 501 L.D. 1369

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

Signed:

Senators:

DAVIS of Piscataquis

DUTREMBLE of York

Representatives:

SHAW of Standish

ALLEY of Beals

COREY of Windham

CRAFTS of Lisbon

HILLIARD of Belgrade

LYFORD of Eddington

MARTIN of Sinclair

REED of Carmel

SHORT of Pittsfield

WOOD of Greene

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-283)**.

Signed:

Senator:

CYRWAY of Kennebec

(Representative DANA of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (S-282)** Report.)

Reports **READ**.

On motion by Senator **DAVIS** of Piscataquis, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-282)** Report **ACCEPTED**.

**READ ONCE**.

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

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED COMMITTEE AMENDMENT "A" (S-282)**.

Ordered sent down forthwith for concurrence.

---

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Establish the Maine Fourth Amendment Protection Act"

S.P. 200 L.D. 531

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-275)**.

Signed:

Senator:

JOHNSON of Lincoln

Representatives:

HOBBINS of Saco

EVANGELOS of Friendship

GINZLER of Bridgton

GUERIN of Glenburn

McCREIGHT of Harpswell

MONAGHAN of Cape Elizabeth

MOONEN of Portland

WARREN of Hallowell

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

Signed:

Senators:  
BURNS of Washington  
VOLK of Cumberland

Representatives:  
HERRICK of Paris  
SHERMAN of Hodgdon

Reports **READ**.

Senator **BURNS** of Washington moved the Senate **ACCEPT** the Minority **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 Minority **OUGHT NOT TO PASS** Report.

---

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Ensure That Tax Expenditures Create High-quality Jobs"  
S.P. 462 L.D. 1287

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

Signed:

Senators:  
McCORMICK of Kennebec  
DAVIS of Piscataquis

Representatives:  
BICKFORD of Auburn  
CHACE of Durham  
SEAVEY of Kennebunkport  
SKOLFIELD of Weld  
SUKEFORTH of Appleton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-279)**.

Signed:

Senator:  
LIBBY of Androscoggin

Representatives:  
GOODE of Bangor  
MOONEN of Portland  
RUSSELL of Portland  
STANLEY of Medway  
TEPLER of Topsham

Reports **READ**.

Senator **CUSHING** of Penobscot moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

On motion by Senator **JOHNSON** of Lincoln, 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 rise in opposition to the Indefinite Postponement for the following reasons. Maine people, as taxpayers and workers, need this bill and they deserve an up or down vote on the important matter of accountability and transparency in our tax spending programs. The Press Herald investigative article on exploitation of a New Markets tax break by Cate Street Capital told how wealthy out-of-state investors are receiving a total of 16 million taxpayer dollars while closing the doors on 200 jobs at Great Northern Paper.

**THE PRESIDENT:** The Chair would ask the Senator to defer. The Chair would remind the Body that we are debating the Indefinite Postponement, not the merits of any bill. The Senator may proceed.

Senator **JOHNSON:** Thank you, Mr. President. I'm not sure, Mr. President, how to debate the merits of Indefinite Postponement when what the cost of that cannot be discussed.

---

Senate at Ease.

Senate called to order by the President.

---

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

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen, I'll try to keep my remarks short. The central question on this matter is which report to move on this bill, which we will not have the opportunity to do and will not have the up or down vote if we Indefinitely Postpone this matter. We have had in the press information about how the people of Maine, through some of our tax spending programs, are being ripped off. I think it's in everyone's attention that some improvements need to be made. I would hope that we would defeat this motion and move on to considering the Ought to Pass as Amended Report because people deserve our action not our inaction on this matter. Programs that the bill would deal with are the New Markets Investment Credit, Capital Investment Credit, and Pine Tree Development Zones. There are some simple principles that this bill would implement in relation to those. If we want our tax spending programs to create jobs, as these three are intended to do, then we should hold them accountable to doing so. Furthermore, we should expect businesses who want this kind of assistance to treat their employees right and create quality jobs that will give them real opportunities to move from poverty to prosperity for the Maine people that would benefit from those jobs. It's fiscally responsible by expecting the employers or investors to live up to their bargain, not only defining what the expectations are for reasonable quality jobs and the number of

jobs at stake but for reporting the outcomes and whether they have truly achieved that and being held responsible by diminishing their eligibility if they fail to fully live up to that bargain. In closing, I just want to say that this is fiscally responsible by expecting qualifying employers and investors to live up to their bargain with Maine taxpayers and it brings accountability that tax spending programs are lacking, responsible to workers and Maine taxpayers, and retains good opportunities for good employers. I urge you follow me in opposition to the Indefinite Postponement. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Cushing to Indefinitely Postpone the Bill and accompanying papers. 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 (#276)**

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

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **CUSHING** of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers **PREVAILED**.

Ordered sent down forthwith for concurrence.

---

**ENACTORS**

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

**Acts**

An Act To Protect Consumers against Residential Real Estate Title Defects

H.P. 215 L.D. 321  
(C "A" H-425)

An Act To Clarify That the Information Gathered during Investigations of Attorneys by the Maine Commission on Indigent Legal Services Is Confidential

H.P. 247 L.D. 360

An Act To Amend the Law Regarding Medical Examiners

H.P. 700 L.D. 1005

An Act To Make Technical Changes to the Sex Offender Registration and Notification Acts of 1999 and 2013  
H.P. 773 L.D. 1112

An Act Regarding Licensed Children's Programs  
H.P. 927 L.D. 1365

An Act To Require the Documentation of the Use of Seclusion and Restraint at Mental Health Institutions in the State  
H.P. 929 L.D. 1368  
(S "A" S-264 to C "A" H-372)

An Act To Clarify and Simplify the Licensing and Registration Provisions of the Inland Fisheries and Wildlife Laws  
H.P. 958 L.D. 1409  
(C "A" H-435)

An Act To Include Muzzle-loading Firearms, Bows and Crossbows as Dangerous Weapons for Purposes of Protection from Abuse Orders  
H.P. 982 L.D. 1438  
(C "A" H-424)

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

Ordered sent down forthwith.

---

An Act To Prohibit the Unauthorized Dissemination of Certain Private Images  
H.P. 460 L.D. 679  
(C "A" H-430)

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

An Act To Create and Sustain Jobs through Development of Cooperatives  
H.P. 886 L.D. 1300  
(C "A" H-396)

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

---

**Resolve**

Resolve, To Establish a Pilot Project for Medicaid Reimbursement for Acupuncture Treatment of Substance Abuse Disorders  
H.P. 751 L.D. 1090  
(C "A" H-438)

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

Ordered sent down forthwith.

**HELD MATTER**

Joint Order Establishing a Work Group To Plan the Transition to Funding Fifty-five Percent of Education Costs and One Hundred Percent of Special Education Costs as Mandated by the Voters at Referendum

S.P. 529  
(S "B" S-246 to S "A" S-208)

(In House, June 16, 2015 **PASSED**, in **NON-CONCURRENCE**.)

(In Senate, June 16, 2015, on motion by Senator **MASON** of Androscoggin, **ADHERED** to **PASSAGE AS AMENDED BY SENATE AMENDMENT "A" (S-208) AS AMENDED BY SENATE AMENDMENT "B" (S-246)** thereto.)

On motion by Senator **JOHNSON** of Lincoln, the Senate **RECONSIDERED** whereby it **ADHERED** to **PASSAGE AS AMENDED BY SENATE AMENDMENT "A" (S-208) AS AMENDED BY SENATE AMENDMENT "B" (S-246)** thereto.

Same Senator moved the Senate **RECEDE** and **CONCUR**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#277)**

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

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

15 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **JOHNSON** of Lincoln to **RECEDE** and **CONCUR FAILED**.

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

Ordered sent down forthwith for concurrence.

**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Assigned (6/8/15) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"

S.P. 31 L.D. 83

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-197)** (5 members)

Tabled - June 8, 2015, by Senator **BURNS** of Washington

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

(In Senate, June 8, 2015, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you very much, Mr. President. Colleagues in the Maine State Senate, I rise in support of the pending motion. As a legislator I'm given the opportunity to introduce bills in this Body, but as a father and a grandfather of four granddaughters and now a great-granddaughter I am deeply aware of the need for this amendment. Like everyone in this Chamber, I want the youngest members of my family to always have access to the best possible care, protection, and guidance when making decisions or going through a very difficult time and, like many of you here, I believe that that care will most often come from a child's family. I believe that current law endangers that protection by making parent or family involvement, when a teenager has an abortion, it turns it into a mere option, and that's why I believe this amendment is needed. This amendment retains the best part of our current law while eliminating the loopholes that are present. It requires the consent of an adult family member before an abortion may be performed on a minor. This bill also provides a safeguard by which a minor can petition the court for consent in the rare cases where the parent or family member consent may possibly be unsafe. It also allows the court to appoint a guardian ad litem for the minor and the law provides that all of this must be kept in the strictest confidentiality.

I think this legislation is needed because the current parent involvement law in Maine will fill with what I feel are potential conflicts of interest. For example, it allows the abortion provider to override parental consent by determining if the minor is mentally and physically capable of consenting to an abortion, thus the very person who is benefiting financially from the procedure, the provider, could be the one to determine if the teenager is capable of consent. Additionally, the current law allows a next friend to file a petition in court on behalf of the minor, granting them consent rights for directly consenting to the abortion. I believe this is dangerous because next friend is not clearly defined. It could be the very person that impregnated the girl. It also could be someone trying to cover up criminal activity. This

Off Record Remarks

amendment would amend Maine law to ensure that, in most circumstances, only a parent, family member, or legal guardian is given the right to consent to a teenager's abortion. In addition to the teen receiving information and counseling, that is currently required in the law and is certainly going to stay there, at least one of the teen's parents, guardian, or adult family member could consent to that abortion. This issue does not confine consent to parents or legal guardians only. It also allows for adult family members to give consent. My understanding is that's anyone in the family that's over 18 years old.

Some of the things in law have always troubled me, having daughters and granddaughters, like I said. Currently, teenage girls can't get their ears pierced, get a tattoo, go on a field trip from school, or begin driver ed without parental consent. This legislation passed a law that will require parental involvement in these activities because we do not believe teenagers should be making these decisions on their own without their parents' involvement. Under current law my granddaughters cannot get an aspirin without their parents' consent at school, but they could have a major medical procedure, such as an abortion, performed on her without her parents having any idea that it is happening. I find that unbelievable.

We all strive for good healthcare in this state. We all have different opinions on it, but we all want it. I just don't understand why we would cut off an important part, the parents, from obtaining this goal. Mr. President, I've lived a long time, been on this earth quite a while. I've been in government for a long time. I worked for the government. I've been around agencies, both profit and non-profit. Mr. President, I can tell you none of these, regardless of how well intended they might be, can replace the love and the nurturing of a parent and the love of their child. Parents are willing to face danger, sacrifice, hardship, heartache to provide the best for their children. Parents need to be there, by their children's side, when facing such life altering decisions. Currently, Mr. President, 38 states currently require some level of parental consent or notification before a teenager may receive an abortion. Even our neighbors to the south, hardly a bastion of fundamental conservatism, Massachusetts, requires parental consent for abortion. This parental consent requirement is designed to enhance the feeling of security and support for a young teen, giving that young teenager a better chance at living a healthy and happy life. The safety of our teens and the rights of parents, we should support this issue. As law makers, I believe, we need to be working with parents and, as parents and grandparents, we need to be given the chance to support the most vulnerable in our families. One of the things, Mr. President, that has disturbed me over the years, and Daniel Patrick Moynihan spoke about it many years ago regarding the black families, is the destruction of our families in society. I believe this issue will strengthen all that. I urge you all to follow my light when voting. Thank you, Mr. President.

On motion by Senator **JOHNSON** of Lincoln, 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 rise in opposition to L.D. 83 and, therefore, in opposition to the pending motion. I have two

daughters, now adults, and three granddaughters. I want to believe that when my daughters were minors if they were ever in need they would have felt safe coming to me or their mother about an unwanted pregnancy. In fact, most women do choose to involve a parent. Maine's three public abortion care providers report that last year only 26 out of the 108 young women who decided to end their pregnancy did so without a parent's consent. For those young women who are unable to involve a parent, the Maine Legislature developed a thoughtful approach designed to ensure the safety and health of these women. When Maine's Adult Involvement Law was signed by Governor McKernan it garnered significant positive national attention and has been held up as a model approach to ensure that young women considering abortion receive the support they need. The Adult Involvement Law states that a young woman under 18 who is seeking an abortion must obtain the consent of a parent or guardian or other family member or the consent of a judge or receive comprehensive options counseling from an approved counselor such as a psychiatrist, psychologist, social worker, ordained clergy member, physician, nurse practitioner, or guidance counselor. The law states that the young woman must receive unbiased, non-judgmental, counseling on all options, including adoption, parenting, and abortion. The patient must be told that she can change her mind and be provided information on how to obtain prenatal care and birth control. The counselor must also discuss the possibility of involving a parent or adult family member and the young woman must put into writing why she is unable to involve a parent in this decision.

Since the law was enacted teen pregnancy and abortion rates has reached historic lows. The state's pregnancy rate has dropped by approximately 55%, one of the sharpest declines in the nation, and teen abortion rates have experienced an even steeper decline, falling more than 75%. Minors having an abortion now count for less than 5% of the total performed in Maine. The state's pregnancy rate ranks fourth in the nation. That's fourth. Much of the success can be attributed to Maine's commonsense approach to teens and sexuality, which includes providing access to medically accurate sex education and reproductive healthcare which helps teens stay safe and healthy. More young people are making responsible decisions to delay sexual activity until they are older and to use birth control when they do have sex. Given this progress, the question comes to mind: why change an approach that has been working for the past 25 years? What's new or compelling that says Maine has it wrong? Nothing. Nothing at all. That's very clear when you look at the serious and very sad consequences of these types of bills.

Take for example Bill and Karen Bell from Indiana. When their legislature considered a similar bill to the one we are discussing today they testified about their 17 year old daughter, Becky. Here are excerpts of their testimony. "In 1988 our beautiful, vibrant 17 year old daughter, Becky, died suddenly after a six day illness. The pathologist who directed her autopsy concluded that the cause of her death was streptococcus pneumonia brought about by an illegal abortion. Learning this, we finally understood our daughter's last words. In the hospital she had taken off her oxygen mask and said, "Mom, Dad, I love you, forgive me." How could this have happened? Why would Becky have risked an illegal abortion? How could parents this close to their daughter as we had always been not have known that she was pregnant and desperate to deal with the situation that she believed that she couldn't share with us? We learned the sad answers to these questions in the weeks following our

daughter's death. Becky had told her girlfriends that she believed we would be terribly hurt and disappointed in her if she told us about her pregnancy. Like a lot of young people, she was not comfortable sharing intimate details of her developing sexuality with her parents. Becky discovered that our state has a parental consent law which requires girls under the age of 18 to get their parent's permission before they can get an abortion. Planned Parenthood counselor told her that she could apply for a judicial bypass as an alternative to parental consent. The counselor remembered Becky's response, "If I can't talk to my parents how can I tell a judge who doesn't even know me?" Desperate to avoid telling us about her pregnancy, and therefore unable to go to a reputable medical establishment where abortions are provided compassionately and safely every day, Becky found someone operating outside the law who would help her. Becky had a back-alley abortion. A parental involvement law ultimately led our daughter to her death." It's a powerful story.

While I hope that my daughters would have come to me with a decision like this, more than that I would have wanted them to be safe and well cared for. I would want a daughter to feel supported by a caring adult with the training and expertise to support her because it doesn't matter how the parents feel about their daughter making that decision, it matters whether the daughter is willing to involve the parents in making that decision. If that could not be me or her mother, I would have wanted it to be someone who was concerned for her safety and well qualified to give her accurate and compassionate counsel. Maine's existing adult involvement law does exactly that and it works. That's why I'll be voting in opposition to L.D. 83 today. Replacing existing law with a one size fits all government mandate will not help parents keep their daughters safe. Young women who choose not to involve a parent often have very real concerns for their safety, as we heard from numerous experts, including the Maine Coalition Against Sexual Assault and the Maine Coalition to End Domestic Violence in testimony opposing this bill. In states which have mandated parental consent laws, that are often referred to as teenager endangerment laws, there is no evidence that fewer minors seek abortions. The strongest evidence shows that the young women seek an abortion in a nearby state that does not mandate a parent's presence or, as experienced by the Bell's, take matters into their own hands. When the parents are not part of the discussion, from the teenager's perspective, there is a good reason why. We all hope that families have open and honest communication, but as parents we cannot afford to be naïve. There are families that do not communicate, especially about issues like sex and sexuality. Attempting to force a teen to confront a parent to talk about her sex life will not make for better or more informed family conversation if it's not already happening before the situation arises and in some cases it will be tragic.

When we moved my eldest daughter to her college dorm room the welcome package of information essentials included dorm rules, a crisis number, and how to get academic help. Among the essentials were some foil packaged condoms. I told my daughter to let us know if she ran out. She never did call home for more condoms, but I wanted to reinforce that, as parents, we understood she would make her own decisions about sex, but her making safe and healthy decisions was the most important thing. I don't know whether my daughters ever had the need, or resorted to, help from Maine's Adult Involvement Law and I don't need to know. I just know that I'm thankful that if they did our current law was there to ensure that tragedy was not the result. I'm thankful that my wife and I have two healthy adult

daughters who had children when they were ready to provide them a loving home and I want Maine's Adult Involvement Law to still be there for my granddaughters when they are teens and for all young women, the ones that can discuss their sex lives with their parents or family and those who are too afraid to do so. L.D. 83 will only make tragedy such as the Bell's all the more likely. Please join me and vote in opposition to the bill and opposition to the current motion. Thank you, Mr. President.

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

Senator **BRAKEY:** Thank you, Mr. President. I understand that this is not a simple issue by any regards. In fact, it's a very complicated one and I understand that. For many people, probably for most people, it is a very emotional issue. I just wanted to take the opportunity to share the story of a very good friend of mine who will, probably for obvious reasons, prefer not to have her name be known. When she was a young teenager she was abused and she was sexually taken advantage of by an older individual and she became pregnant. That abuser took her to get an abortion and all the evidence of the abuse was gone. If her parents or another family member, as the bill before us is very broad and allows for any adult family member, had been required to even be notified this abuser, the sexual abuser, would have been caught and punished for what he did to my friend. As it was, that didn't happen and it's haunted her ever since.

I'm going to be voting to support this and I understand that this is a complex issue, but I would hope that as this Body moves to push the green or the red light on this that we think about cases like this and the potential for empowering abusers to get away with their crimes and doing further damage to their victims. Thank you very much.

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

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I will make my remarks brief, but I simply want to touch on one aspect of this legislation and that is the philosophical underpinnings of this bill. As many have already probably heard, when the Supreme Court upheld the constitutionality of parental consent laws in 1992 the Justices noted that parental consent laws are based on the quite reasonable assumption that minors will benefit from consultation with their parents and will often not realize that their parents have their best interests at heart. I agree with this assessment. I believe that most Maine parents want what is best for their children and that most Maine parents truly do have their best interests at heart, as difficult as that may be. This bill, L.D. 83, is a practical exercise of that belief.

Unfortunately, some opponents have said this bill imposes a superfluous barrier to good healthcare or would somehow be detrimental to the health of Maine's youth, but to accept this premise is to say that most Maine parents are obstacles to the wellbeing of their children. Mr. President, I do not agree with this assessment. Are there some parents who might pose a risk to their children when finding out about a pregnancy? Yes. Unfortunately, that may be the case. We've heard some very sad stories here today and I respect that there are difficulties that many families would encounter in this, but ultimately we need to trust the relationship between parents and children. For this Body



to avoid protecting the rights of the vast majority of parents in our state is to them and their children a great disservice.

As a parent, Mr. President, three now young adults, we all go through some of those challenging years. Children don't come with a handbook with instructions that help us and guide us through some of the difficult challenges, but that relationship that we have and that we build with our children is critical when they have to make life decisions. Imagine this instance. A young daughter being faced with the unimaginable choice of whether or not, at their early age, to carry through to term with a baby that they have gotten unexpectedly or ending that life. You can certainly change your mind, but this is an irreversible procedure, Mr. President. You can't change the results. Where is the support afterwards? In our youth we make choices and many times as we mature we become aware that it would have been helpful to have the advice of caring adults. We would have benefited from that, from our family's involvement, particularly in the tough choices and the tough obstacles and challenges, the tough decisions that we would have to face in life. That's why, Mr. President, as a member of this Body, as a parent, as a new grandfather, I ask you to follow my light in supporting this. 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 in opposition to the motion before us. I rise today as a daughter of a caring, loving home, but I have a close personal friend who did not have the same benefit, who was abused, who was sexually abused, and did not have the same options and choices that I would have had. As I stand here today, that is on my mind. I'm also the mother of a daughter who I cherish and have done my best to give her all my love, care, and attention, but I do not live under the illusion that my family and caring, responsible home exists for every daughter in the state of Maine. I have heard this morning, or afternoon, that most Maine families care for their daughters. Most Maine families. I don't know what that means. How many is most? Well I will tell you that with the report of Kids Count we have evidence that there is neglect in Maine's families and abuse in Maine's families. Those are the children, the daughters, and the girls that I worry about, that I'm thinking about. Research has shown that the changes that this bill seeks to make will delay young women's access and endanger their health and safety, leaving them alone and afraid. I cannot, I will not, support any legislation that will endanger a single daughter or young girl because they have the misfortune of being born into a family that doesn't benefit from the love that we all have experienced. Thank you, Mr. President.

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

Senator **BREEN:** Thank you very much, Mr. President. Men and women of the Senate, I really appreciate all the comments about daughters and sisters and nieces and mothers. I have a mother and nieces and sister and daughter myself, but this isn't about any of them. This is about me and this is about the loving family that I grew up in, that was guided by a very strict Catholic moral code. My mother grew up in the 30's and 40's in a very, very strict religious home. She went to all-girls schools through college, Catholic girls' schools. Highly educated with a very black

and white world view. Fast forward to the 1970's and 1980's. I was the youngest of six kids, with four older brothers, going to co-ed public schools, in a completely different culture. My mother taught me the facts of life in fifth grade and I said, "What if I don't remember this, Mom?" and she said, "Don't worry. You don't need any of this until you're married." Between the time I was 11 and 26 I never had another conversation about this topic with my very loving, highly educated, caring, wonderful mother. That was a conversation that would not happen in the Breen household.

We've all heard that it takes a village to raise a child. This law excludes the village that I relied on to get through those teenage years, to get through high school, to get to college, to get through grad school, and be in charge of my own reproductive life. Now I'm a parent. Ironically, I'm an adoptive parent. I don't know a lot about my children's birth mothers, but this is what I do know. They found themselves in unexpected and difficult positions and they had the liberty to search their souls, consult their own moral code, their own clergy, their own families, their own souls, to come to a decision that they made freely and generously and that for which I will be eternally grateful. If I thought for a second that those choices were based on the will of a legislator or a judge I would be sick to my stomach. I am delighted that the birth parents in my life had the resources, whether it was their loving parents or an aunt or a social worker or a teacher or a nurse, whatever they needed, to come to a loving and generous decision. They did it though their own conscience. This bill would limit that opportunity for women who find themselves in unexpected situations and for that reason I oppose it. 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'm going to try to keep my remarks non-personal. We've heard a lot of personal remarks this morning, and they are appropriate. I don't diminish those at all. I've been trying to think of what I wanted to say. I've been thinking about it for a long time here. One of the statements that was made by my colleague from Lincoln has got me a little bit off track. My eldest daughter, her name is Rebecca, and I'm trying desperately to keep that out of my mind, but I guess I would take great deference of opinion with the good Senator. This kind of puts the whole thing in perspective to me, that we're talking about today. I see that story as the lack of parental involvement that led to that terrible, terrible tragedy.

In Maine we all know that Planned Parenthood likes to exclaim, and I will read from their document, that in Maine, as compared to other states, no parental involvement is required. Ladies and gentlemen, is that what we really want? Is that what we really want in this state for the care of our daughters and granddaughters, our friends? We come here together to make laws for the State of Maine that benefit all people in this state. To do that, sometimes we have to make compromises. In fact it's more often than not, especially as we've seen in this last session when we have a divided government. Compromise is a little more often than maybe some of us are used to. In the final analysis, hopefully, we come out with something, a product, that meets the majority of peoples' needs. I submit to you right now that the current law that's on the statutes that we've been living under for the last 25 years does not meet all peoples', or the majority of peoples', needs. It meets some apparently. I keep asking the

question of myself: do we really want young girls in our community to make other extremely important decisions in their life without the benefit of parental guidance and counseling when that is available?

I just ask this Chamber to ponder that for just a moment. Set this issue aside and think about all the many, many, many issues. I have five children. Many of you have less or more. Think of the issues that have come up through your children's lives. Extremely important issues. Life changing issues. Please think about that as we continue this debate. Would you want them to make those decisions without the help of a parent or parents if they are available? I can't fathom it. I just can't fathom it. Like somebody else has said, I've been on this earth too long, apparently. In raising five children, I can think of so many situations that we talked about, counseled about, difficult decisions, decisions that they needed to come to grips with in order to move on that my wife and I were included in. We didn't always get our way, my kids would be the first to tell you that, but we had the discussions. I'm as conservative as anybody in this place. My kids know that too. They're not. They make their own minds up, but we've had the discussions because they knew and they were raised, like most of our children are, to be able to think for themselves, but also to get counsel from those who might have something to offer. I'd like to think that that helped them through their lives to this point. If they're listening I hope they agree.

Critics of this bill, these minor changes that I think will meet a lot more parents' needs, say that Maine's laws have been working for the last 25 years. I question that. Yes, we apparently have statistics that shows that pregnancies have been reduced. I'm very, very happy about that and every parent should be, but I don't attribute that to this law. There are many other things that are going on. There are educational things that are going on. I'd like to think abstinence education that has been taking prominence in the last couple of decades has led to that also. You may or may not agree, but I think you'd have to do personal inquiries from every teenager to find out if that's the case. I, personally, think that it's helped. Some of the people that are responsible for crafting this bill 25 years ago are still here with us. We heard from them in the committee. We hear from them at the other end of this building. They have a stake in this law. I understand that. That doesn't mean it's been effective for everybody. They have ownership. My response is that we really don't know. I base that on some facts, some facts that I related to you a few days ago, the fact that one of the major abortion providers in this state refused to provide statistics, that apparently are required under the law, to the State of Maine over and over and over again. You tell me, do you have all the facts? I don't think you do.

We, as parents, no matter where we live in this state or who we are, are given the most important responsibility that mankind could possibly undertake when we have children; that's to raise those children safely, in a loving and caring environment, and provide them the guidance until they have the gray matter, if you will, to live on their own. I think most parents do that. I acknowledge the fact that some parents fall short of that goal. In fact, some parents actually violate that and do just the opposite. Do we really want to have laws on the statute that address that minority when the vast majority do what is the responsible thing? I don't think that's right. I think we need to reconsider that. It's so easy, it's so easy for us to use anecdotal exceptions to the rule when we know, from our own personal life's experience, that most

parents love their children and most parents will do what is best for their children. I really believe that and I've had the unfortunate experience of having to work with many of those through my life's career who don't. Once again, even though my exposure to them has been far more than I would like to have been, this was the exception. This isn't the average family that we're talking about, that would violate those entrustments. When a young lady, or young girl, makes an unfortunate mistake and gets pregnant that's only the beginning. As far as I'm concerned, that mistake is nothing compared to the mistakes that can follow. Rather than see that situation exacerbated and become worse and become a lifelong problem, I believe with the input, the counseling, the access that that child has, that young lady has, to advice will determine what the rest of her life is going to be like. The decisions may not be one that I would think was right, but at least she'll have the information to work with. I think we owe that to every young lady. I certainly would stay off personal issues. There needs to be parental involvement in every major life decisions that a young person makes. That needs to come from parents that love and we should not be focusing on the exceptions.

However, the exceptions do happen and I think that this law, this change in the statute that's being proposed here, is an extremely good one. It makes the situation safer and better for that young girl who has to bypass the parents and go to somebody else. It changes the definition, as you know, that we now live with called the next friend. When you get to that point, and there has to be a court bypass, the next friend, with this law, would no longer be the young man that impregnated her. Why on earth would we want to take that chance to allow that to happen? That needs to be eliminated out of the possibilities here. That next friend needs to be a trusted counselor or a member of the child's family. I just can't fathom how we can take a chance on the person who actually impregnated that child being the one that gives her the guidance as to what to do about it. It just boggles my mind.

Parental consent, parental approval, information and counseling, next friend, a family member or counselor, and, when necessary, a judicial bypass for which we provide a guardian ad litem should that unfortunate situation result in this. A guardian ad litem, someone who we have agreed in this state, collectively, that can guide a child through some of the most difficult circumstances when we're talking about the estrangement of the parents. It's the least ominous help that we can possibly provide to that child in that particular situation, who's not going to be influenced by the perpetrator, is not going to be influenced by bad parents, and is going to help that child go through that process of the judicial bypass. To me it makes sense. We have seen fit, and seen its merits, and agreed that it makes sense in other difficult situations. Ladies and gentlemen, it makes sense here.

It wouldn't surprise you to hear me say that this is one of the most important bills I've had to face and had to deal with this session, in many sessions, because of my perspective on this issue, but I think it's well worth the effort, it's well worth having the discussion. I respect everybody's opinion on this, but I'm asking you also to respect mine. Every one of us, I believe this, here wants the best for every young person. I'd like to be included in that group. We have a difference of opinion on what the best is, but I'd ask you to think again, and ponder what I suggested a minute ago, that there are many parents out there that are being isolated and cut out of that all important decision for their child. This will enhance that opportunity to have that involvement that

will pay dividends throughout the rest of that child's life. If the unfortunate thing happens, then there is an alternative to it provided in this amendment. We love our kids. We want to do the best for them. I thank you very much for your patience and listening to me. Thank you, Mr. President.

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

Senator **VALENTINO:** Thank you, Mr. President. Men and women of the Senate, I also rise today as the mother of two daughters and the grandmother of two granddaughters, one who is 14 years old and will be graduating from 8<sup>th</sup> grade tomorrow night. I must say she looks like she's graduating from high school, especially with what she's wearing tomorrow night. I also rise today as a woman who was in high school, both in pre and after, Roe vs. Wade, the Supreme Court decision. I have seen many changes over these years. One of these changes took place 25 years ago when Maine adopted the Maine Adult Involvement Law. This current law gives protections for both the physical and, more importantly, the mental health of any young woman who finds herself pregnant. This law has worked for 25 years and ensures that a trusted adult is involved in any decision to seek an abortion. There is not a problem. Why are we trying to change the law and what is the purpose of changing next friend to adult family member? On the handout that I was given it says current law allows a next friend to file a petition to the court on behalf of the minor, but does not define next friend. As such, a potential abuser could use the court process to coerce a teenager into an abortion and/or potentially cover up any criminal behavior committed against the minor.

I have heard people talk about their concern about next friend. My concern is about the definition of adult family member. I have searched. I have searched the statute. I have searched the amendment. I do not see a definition. I do not know what an adult family member is. An adult family member could just as easily be the one who impregnated the young woman, as any next friend could be. It could be the father. It could be the uncle. It could be the brother. What is the definition of adult family member? Is it your 18 year old sister who is a senior in high school? Is it your step-mother's son? Is it your cousin who lives in another state? Is it your uncle, your aunt, your second cousin, your half-brother, your step-sister? I would rather have current law where the child, or my grandchild, is talking to someone who is qualified, such as a nurse, a counselor, a psychiatrist, somebody that can counsel them in an unbiased way. More importantly, in an unjudgmental way.

This bill would not decrease teen pregnancies. It would only make a young woman's decision more stressful and possibly more risky. This bill is not about parental involvement. This bill changes next friend to adult family member. It does not say you need your parent. All the discussions about bringing in your parent have nothing to do with this bill. As I mentioned, this could be your 18 year old sister who's a senior in high school, because she is an adult family member. The adult family member is just as vague as next friend and the adult family member could also be the same abuser that you're talking about under next friend. This law is not broken. This law is working and it has worked for 25 years. Please vote Ought Not to Pass.

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

Senator **MASON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I first would like to say that I thank the membership for the courteous discourse that's happened. These are heavy matters and the reason that we are sent here. I would like to thank everybody for respecting everybody's opinions because these are not easy decisions and, especially something like this, we have to make our decisions based on convictions. We have to make our decisions based on facts. I do support the bill that is in front of us and I will be voting in favor of the motion. I just wanted to point out a couple of things before we get to that point.

Some of you may have heard about this bill, in fact we've heard it this morning in our debate, that this bill is unnecessary because many times teenagers tell their parents or family members about their pregnancy or their abortion plans. In fact, opponents often say that 61% of young women discuss this decision to have an abortion with at least one of their parents. However, this statistic is slightly misquoted because if you read the study a little bit further you will find that 45% of minors actually tell their parents about their pregnancy and/or abortion plans. The remaining parents, according to the study, find out through other forms of communication and other people.

Secondly, you may have heard that most teenagers do not tell their parents about a pregnancy or an abortion plan because they fear violence, they fear retribution, and they might have a very good reason for not telling. According to the aforementioned study, most teenagers avoid telling their parents because, not fear of violence, they are afraid of disappointing their parents.

Mr. President, as a teenager, none of us wanted to disappoint our parents in any decision that we make, especially with something as critical as this but it is no reason to throw out consent. In most cases parental consent and parental involvement is beneficial to teenagers, as adult family members are often in the best position to provide support and care for teenagers experiencing an unplanned pregnancy. Mr. President, ladies and gentlemen of the Senate, this bill is not an attempt to undermine anyone's rights, nor is it trying to put parents under pressure to providing a particular point of view. This is about fixing a law that makes parental involvement a mere option.

Mr. President, I'd also like to make note of the remarks that the Senator from Androscoggin, Senator Brakey, made in his testimony here on the Floor today. I think that is the reason why we have this bill in front of us. That's an incredibly unfortunate situation that his friend was involved in. Mr. President, I won't belabor the point any more. I would urge the membership to vote in favor of the pending motion and I thank you for the time and the courteous discourse among the membership. Thank you.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to say a little brief thing. I think that the biggest thing here is about heart. You all have hearts. You all care about your sons and daughters and granddaughters, whatever. Working in the jail, under the worst conditions and worst situations, I've seen youths that go into the jail system and, you know, the only person that shows up is their family members, their parents or their grandparents. I'll tell you that there's no closer person that you're going to have than a caring parent that's concerned for their child. I think that that's

what we're getting at here. You don't want to leave it up to somebody that doesn't have that inner heart to make that decision. That's all I have to say. Thanks.

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

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen, I said this is a very emotional issue and we all care, I think, ultimately about the life and safety and, hopefully, good decisions of our young women. I'm sure that every single caring parent wants their child to come to them, I can't imagine one not, but we've also heard that not every child does, as in Becky Bell's case. A loving family. Someone who felt that she could not approach her parents because they would not believe that she had actually done something they disapproved of and still look at her the same way. I also know that every single loving parent has to accept that these are adolescents who are struggling with what is still in our society marked by a certain amount of shame, taboo, and certainly a great deal of judgment. Sexuality. Personal decisions. Some of those very difficult ones on the verge of adulthood. How many of us have been consulted by our teenagers before they engaged in sexual activities? As much as every one of us, as a loving parent, would want our daughter to come to us in a situation in which this bill is applicable, we must understand as well that it is the teen's view of this that makes this bill so very dangerous, because this bill is taking away one thing that's very important, the option for an adult to be involved in the decision when they, for whatever reason, don't, and are unwilling, to approach a parent and, of course, the very unlikely prospect of actually going to speak to a judge to make the decision instead. As much as that may be difficult to accept as a parent, I want every one of us to understand that we're viewing this from the lens of a caring parent and a loving home. Most women do consult their parents before seeking an abortion. In fact, under current law those adults, counselors, and the very specific professions identified in law, I listed them earlier, advise them on approaching a parent about making that decision and that child, the daughter of those parents who feels that they cannot actually ask, to sign a reason why they are unwilling to do so. Current law attempts to involve the parent in the process, but it also allows, as this bill would not, for those people that don't have a loving family, caring parents, or even if they do don't feel that they can, in order to avoid the sorts of tragedies that the Bell's experienced. This is a very real problem in spite of the majority. In fact, in the last year roughly, actually more than, three-quarters of young women consulting their parents, but it's still true that 50% of pregnant teens have experienced violence; something else you fully do not expect in a loving family. Thirty percent of teens who do not tell their parents about their abortions feared violence or being forced to leave home. Current law provides a safety valve, the safe harbor, for those teens and for the teens who feel as the Bell's daughter did, that they can't approach even loving parents about this taboo subject, which they never consulted their parents about engaging in sexual activities that got them into this circumstance in the first place, for exactly those same reasons of feeling about themselves and their identity and their sexuality in adolescence and the taboos still in our society. I hope you will join with me in opposing this bill that absolutely undermines that safety valve that has been working for more than 25 years. Thank you, ladies and gentlemen.

**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, we've heard a great deal today and I suspect that we all knew how we were going to vote before any of this dialogue took place. Nonetheless, this is an extraordinarily important thing for each of us to be able to speak about and I think I rise today simply to bear witness. It's a very important issue for me. It has had a profound impact in my personal life, in my family, my professional life, so it is something I care a great deal about. I have two observations only, and they're both medical. The first being that if something is working in a system for a patient, treatment or whatever, don't change it. If it's working I think that we can potentially do great harm by looking for a chance. Second, more specific as a medical practitioner, Mr. President, I'm there for my patients. I'm there to think with them. I'm there to listen. I'm there to listen some more. I'm there to try to understand where they're coming from. Each patient is different and I think that that's what's needed in this instance. Treat each patient, each person, individually. We are not all cut out of the same mold and I think that the current motion, which would change what has been done reasonably successfully, not perfectly, over time, we should not be changing now. Thank you very much.

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

Senator **VOLK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I had a much longer speech prepared but I think I will shorten it up a little bit. I think it's imperative for us to remember that we're talking about teenagers here. I am the mother of four, three of them daughters. One of them currently a teenager, one of them a young adult, and the other an 11-1/2 year old who thinks she's a teenager. Teenagers, no matter how mature or informed they may be, are still teenagers and as such would most likely benefit from their parents' and family's support. When Justices O'Connor, Kennedy, and Suttter wrote about the decision that they made on Planned Parenthood v. Casey when they found that, in fact, requiring a minor to involve parents in the decision to have an abortion did not impede her constitutional rights. They actually wrote that parental consent and notification laws related to abortions are based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart. I was struck by some of the comments coming from some of the opponents of the pending motion who said that they would not have felt that they could discuss something like this with their own parents. I think that that's one of the reasons that makes this law a good idea. Children are often afraid of something that in actuality is not really something that they have to be afraid of. As parents, our children disappoint us all the time but it's our job to let them know that that doesn't mean we love them any less. I think that that is true even for parents who may not be the most sensitive or caring parents. They don't love their children any less and that's an important message for children to be able to receive. It's important to note that 72% of women, according to a 2011 Gallup poll, actually support parental consent laws. That's actually higher than the general population, which I believe is only 70%. I find that very interesting.

This bill gives adult family members the opportunity to provide an attending physician with necessary medical information. I heard the Senator from York's concern about how to define adult family member and I'm guessing that if those definitions are necessary then that's something that could be done in rule making pretty easily. There may even be precedent already somewhere in the law. One of the other things that I think that we should keep in mind is that parents are going to know a family's medical history and they are also going to be able to help their child navigate the healthcare system, help cover costs, and adhere to any post-procedure instructions. I don't know about you but my 16 year old daughter doesn't even like to go to the pharmacy by herself. I make her call in refills for her prescriptions and she hates to do that kind of thing, but she has to be forced to do it because that's part of learning how to grow up and that's part of my role, as a parent, to walk her through that process. Furthermore, parents and family members who are aware that their daughter has undergone a medical procedure are going to be on the lookout for any complications, both physical and emotional. There is a story of a 14 year old girl in Missouri who actually committed suicide due to depression following an abortion and her parents didn't know anything about the abortion, therefore couldn't help their daughter and potentially prevent that suicide.

Finally, this bill will help protect young girls from sexual abuse and exploitation by potential abusers. We heard the Senator from Androscoggin detail the story about his friend. He shared that story with us in caucus and I specifically asked him to share it with all of you here on the Floor and with the public, of course protecting her privacy. Abusers and people who have taken advantage of girls could actually use secret abortions to cover up their crimes. If a child has been a victim of violence, as the good Senator from Lincoln mentioned, my goodness, don't we want the parents to know about that? I mean, this bill has clear protections for if the parents are the source of that violence, but, my gosh, I mean, if this child has been involved in a violent situation I believe that there's probably even a legal necessity for the parents to become aware of that.

We should keep in mind that this bill deals with situations in which an under-aged girl has become pregnant. The fact that she is under-aged should immediately raise a red flag as it's quite possible that the father may be several years older. In fact, researchers in a study in California of over 46,000 pregnancies by school age girls, that's a pretty substantial number, found that 71% were fathered by adult post-high school men whose average age was 5 years older than the mother's. Also, according to this study, among middle school age mothers, age 15 or younger, most births were fathered by adult men 6 or 7 years older. This means that a teenage girl who is experiencing an unplanned pregnancy is also very likely to be a victim of abuse by an adult male. Making sure that parents know of their daughter's pregnancy, then, is one way to protect teenage girls from sexual abuse and exploitation by adult predators.

We heard the concerns in the committee about the judicial bypass and I even expressed some concerns about that to my fellow committee members. We amended the bill to redefine next friend. You can find that in Section 2, 22 MRSA, 1597-A, letter D in case you're looking for it. Next friend is redefined so that the minor can be accompanied by any adult family member or counselor. This could be a guidance counselor. This could be a favorite teacher, a coach. It could be a neighbor. Well, maybe not a neighbor.

My fellow legislators, this bill is about protecting some of our most vulnerable citizens. It's about giving families a chance to provide the support and guidance our young people need and recognizing that families are most often, not always, in the best position to provide that support. It's about working with families, and not against them, to care for Maine's young citizens. Will you join me in helping to ensure the greatest amount of protection for some of our most vulnerable Mainers? If so then I thank you in advance for voting in favor of the pending motion.

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

Senator **BURNS:** Thank you, Mr. President. I appreciate the opportunity to stand a second time. I know that you don't want to hear from me again on this, but there is something that I have to take exception with that I heard here. A couple of things, I'm sorry. It was said that everybody has their mind made up probably. I really hope that isn't the case. I hope that this Chamber and this Body would listen to this intently. We all have our own positions, our own feelings, our own philosophy, but I've learned a lot from people that I've had different opinions from by listening to the merits. I would hope that you folks would too and not prematurely make up your minds. The other thing that I want to respond to is that it's working fine. I've heard that several times. I take particular exception to that because it is not working fine. You just heard the statistics, 72% that were surveyed agree that parental consent is very important and necessary. I submit to you, ladies and gentlemen, there has been a large portion of our community that has been cut out of this formula because of our current and existing law. Consequently, when a parent is cut out so is their daughter because they no longer have the opportunity to have that discussion because they are in a terrifying situation, they move ahead on their own, they seek advice from somebody other than the family for whatever reason, because of embarrassment level or because of something else. They, too, are being cut out of the equation here. This minor amendment that was presented and is before you right now would give the opportunity for that consultation to take place and those people that have been cut out of this equation to be a part of it. I think that's an extremely important point we need to remember. This has not worked for every family. Thank you, Mr. President, again.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#278)**

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

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, ROSEN, VALENTINO

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **BURNS** of Washington to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Ordered sent down forthwith for concurrence.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Provide Funding for Head Start Services"

H.P. 723 L.D. 1054  
(C "B" H-404)

Report "A" - **Ought to Pass as Amended by Committee Amendment "A" (H-403)** (7 members)

Report "B" - **Ought Not to Pass** (3 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-404)** (2 members)

In House, June 12, 2015, Report "A" **OUGHT TO PASS AS AMENDED READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-403)**.

In Senate, June 17, 2015, on motion by Senator **BRAKEY** of Androscoggin, Report "B" **OUGHT NOT TO PASS READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

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

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Make the State's Standard for Lead Exposure in Children Consistent with the Federal Standard"

S.P. 387 L.D. 1115  
(C "A" S-270)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-270)** (10 members)

Minority - **Ought Not to Pass** (3 members)

In Senate, June 16, 2015, on motion by Senator **BRAKEY** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270)**.

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

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

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 Remove the Limit on the Number of Patients a Primary Caregiver May Provide for under the Medical Marijuana Laws"

H.P. 8 L.D. 5

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-456)**.

Signed:

Senators:

**BRAKEY** of Androscoggin  
**HASKELL** of Cumberland

Representatives:

**BURSTEIN** of Lincolnville  
**HAMANN** of South Portland  
**HEAD** of Bethel  
**HYMANSON** of York  
**MALABY** of Hancock  
**SANDERSON** of Chelsea  
**VACHON** of Scarborough

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

Signed:

Representatives:

GATTINE of Westbrook  
PETERSON of Rumford  
STUCKEY of Portland

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.

Reports **READ**.

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

**READ ONCE**.

Committee Amendment "A" (H-456) **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

##### Divided Report

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Resolve, Reauthorizing the Balance of the 2009 Bond Issue for an Offshore Wind Energy Demonstration Project (EMERGENCY)

S.P. 546 L.D. 1445

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

Signed:

Senators:

HAMPER of Oxford  
KATZ of Kennebec  
VALENTINO of York

Representatives:

ROTUNDO of Lewiston  
FREY of Bangor  
GRANT of Gardiner  
JORGENSEN of Portland  
MARTIN of Eagle Lake  
NUTTING of Oakland  
SANBORN of Gorham  
TIMBERLAKE of Turner  
WINSOR of Norway

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

Signed:

Representative:

SIROCKI of Scarborough

Reports **READ**.

On motion by Senator **HAMPER** of Oxford, the Majority **OUGHT TO PASS AS AMENDED** Report **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**. Sent down 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 Amend the Maine Medical Use of Marijuana Act"

H.P. 942 L.D. 1392

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-454)**.

Signed:

Senators:

BRAKEY of Androscoggin  
HASKELL of Cumberland

Representatives:

HEAD of Bethel  
HYMANSON of York  
MALABY of Hancock  
SANDERSON of Chelsea  
VACHON of Scarborough

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

Signed:

Representatives:

GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
PETERSON of Rumford  
STUCKEY of Portland

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

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT**  
the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-**  
**CONCURRENCE**.

---

Senate at Ease.

Senate called to order by the President.

---

On motion by Senator **MASON** of Androscoggin, **TABLED** until  
Later in Today's Session, pending the motion by Senator  
**BRAKEY** of Androscoggin to **ACCEPT** the Majority **OUGHT TO**  
**PASS AS AMENDED** Report, in **NON-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 **INLAND FISHERIES AND WILDLIFE** on Bill  
"An Act To Improve Snowmobiling in Maine"  
H.P. 725 L.D. 1056

Reported that the same **Ought to Pass as Amended by**  
**Committee Amendment "A" (H-179)**.

Comes from the House with the Report **READ** and the Bill and  
accompanying papers **INDEFINITELY POSTPONED**.

Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

**READ ONCE**.

Committee Amendment "A" (H-179) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and  
**PASSED TO BE ENGROSSED AS AMENDED**, in **NON-**  
**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 Strengthen the Protections for Senior Citizens in the  
State

S.P. 454 L.D. 1272  
(C "A" S-277)

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

---

**Acts**

An Act To Provide Reasonable Accommodations for School  
Attendance for Children Certified for the Medical Use of Marijuana  
H.P. 381 L.D. 557  
(S "A" S-148 to C "A" H-207)

An Act To Clarify Who May Authorize Repairs in a Burying  
Ground

S.P. 307 L.D. 862  
(C "A" S-285)

An Act To Amend the Laws Governing the Filing of Wage  
Statements and Other Laws under the Maine Workers'  
Compensation Act of 1992

S.P. 391 L.D. 1119  
(C "A" S-286)

An Act To Correct and Clarify Maine's Fish and Wildlife Laws

S.P. 423 L.D. 1196  
(C "A" S-267)

An Act To Strengthen Maine's Fisheries Laws

S.P. 525 L.D. 1410  
(C "A" S-265)

An Act To Amend the Tax Laws

S.P. 526 L.D. 1411  
(H "A" H-452 to C "A" S-241)

An Act To Consolidate the Investigation of Out-of-home Child  
Abuse and Neglect

H.P. 977 L.D. 1432  
(C "A" H-453)

An Act To Establish a Secure Internet-based Background Check  
Center for Providers of Long-term Care, Child Care and In-home  
and Community-based Services

S.P. 541 L.D. 1439  
(C "A" S-274)



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

Ordered sent down forthwith.

---

An Act To Establish the Summer Success Program Fund  
H.P. 286 L.D. 419  
(C "A" H-450)

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

---

An Act To Help Stabilize Homeless Shelters and Shelters for Victims of Human Trafficking in Maine  
S.P. 172 L.D. 443  
(C "A" S-273)

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

---

An Act To Promote Privacy in Social Media  
H.P. 467 L.D. 686  
(C "A" H-440)

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

---

An Act To Promote Food Self-sufficiency for the People of the State  
H.P. 877 L.D. 1291  
(C "A" H-447)

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

---

An Act To Establish a Local Food Producers and Processors to Consumers Pilot Program  
S.P. 506 L.D. 1376  
(C "A" S-284)

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

---

## Resolves

Resolve, To Create a Working Group To Develop Solutions To Meet the Needs for Municipal Volunteer Personnel  
H.P. 339 L.D. 500  
(H "A" H-418 to C "A" H-376)

On motion by Senator **CUSHING** of Penobscot, placed on the **SPECIAL STUDY TABLE**, pending **PASSAGE**, in concurrence.

---

Resolve, Directing the Secretary of State, Maine State Library and Law and Legislative Reference Library To Make the Articles of Separation of Maine from Massachusetts More Prominently Available to Educators and the Inquiring Public  
H.P. 612 L.D. 893  
(C "A" H-414; H "A" H-434)

Senator **CUSHING** of Penobscot moved the Bill and accompanying papers be placed on the **SPECIAL STUDY TABLE** pending **FINAL PASSAGE**, in concurrence.

---

Senate at Ease.

Senate called to order by the President.

---

Senator **CUSHING** of Penobscot requested and received leave of the Senate to withdraw his motion to place on the **SPECIAL STUDY TABLE** pending **PASSAGE**, in concurrence.

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

Ordered sent down forthwith.

---

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

---

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

## PAPERS FROM THE HOUSE

### Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Grocery Stores under 10,000 Square Feet To Be Open on Sundays"

H.P. 589 L.D. 855

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

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

In House, June 15, 2015, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

In Senate, June 17, 2015, on motion by Senator **VOLK** of Cumberland, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**, in **NON-CONCURRENCE**.

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

On motion by Senator **VOLK** of Cumberland, the Senate **INSISTED**.

---

Off Record Remarks

---

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

---

Off Record Remarks

---

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

After Recess

Senate called to order by the President.

---

The President requested the Sergeant-At-Arms escort the Senator from Androscoggin, Senator **MASON**, to the rostrum where he assumed the duties as President Pro Tempore.

The President took a seat on the Floor.

The Senate was called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

---

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

#### COMMUNICATIONS

The Following Communication: S.C. 457

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

June 17, 2015

Honorable Heather J.R. Priest  
Secretary of the Senate  
3 State House Station  
Augusta, ME 04333

Dear Secretary Priest:

Pursuant to my authority under Senate Rule 201.3, I am pleased to appoint the Senator from Androscoggin, Senator Mason to serve as President Pro Tempore for the afternoon session. With this appointment Senator Mason will serve as President Pro Tempore for the start of the regularly scheduled session on June 17, 2015.

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

Sincerely,

S/Michael D. Thibodeau  
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 **TRANSPORTATION** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2016 and June 30, 2017"

H.P. 740 L.D. 1080

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-457)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-457)**.

Report **READ**.

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

Senator **COLLINS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, this is the Highway Budget. Some of you folks who are new to the Maine Senate, the Maine Legislature has two budgets; the General Fund Budget and the Highway Budget. The Highway Budget is responsible for maintenance and reconstruction of Maine's infrastructure, highways and bridges, roads, and the maintenance for all that

throughout the state of Maine. The Transportation Committee oversees this budget and, as a matter of fact, we heard from the folks back home when we increased the local road assistance program by a small margin. I recommend highly this budget. It does a lot of things for Maine people, always putting the emphasis on quality work, ahead of schedule, and below budget. Thank you.

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

Senator **DIAMOND:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I do want to add a little bit more to that good explanation. The Transportation Committee worked very quietly under the radar in most of the things we did. Unanimous, the few that we weren't we had healthy discussions. This budget really did come very, very well for all of you and back home. The budget includes 600 miles each year in 2016 and 2017 of light paving, light work, repair work that we all like to see in our districts. The total budget is \$1.2 billion and then the Highway Fund part of it is about \$500 million. It really has reached out. The local road assistance, as you just heard, will be about the same, maybe a little bit more than it was last year. I think all the things in this budget, again, not much fanfare, Mr. President, but it's all good and I think you're going to be able to go back home and share with your town officials and with your constituents that you're bringing back a real good Highway Budget you can be proud of. Thank you, Mr. President.

Report **ACCEPTED**, in concurrence.

#### **READ ONCE.**

Committee Amendment "A" (H-457) **READ** and **ADOPTED**, in concurrence.

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

---

Off Record Remarks

---

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**

#### **Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Forensic Treatment Fund To Establish a Behavioral Assessment and Safety Evaluation Unit"

H.P. 974 L.D. 1428

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

Signed:

Senator:  
HASKELL of Cumberland

Representatives:  
GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
HYMANSON of York  
PETERSON of Rumford  
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-334).**

Signed:

Senator:  
BRAKEY of Androscoggin

Representatives:  
HEAD of Bethel  
MALABY of Hancock  
SANDERSON of Chelsea  
VACHON of Scarborough

Comes from the House with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES.**

Reports **READ.**

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE.**

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

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

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I would urge you to vote against the Ought to Pass motion here. This bill, An Act to Establish the Forensic Treatment Fund to Establish a Behavioral Assessment and Safety Evaluation Unit, is an excellent idea with no details behind it. It has been proposed as an opportunity to fund the establishment and operation by the Commissioner of a free-standing behavioral assessment and safety evaluation unit to provide a secure facility for the psychiatric care and treatment of

persons who are being evaluated. This is a good idea. We probably need to think about this, but there were absolutely no details regarding whether this was a free-standing unit, whether it was attached to Riverview, whether it was part of Dorothea Dix, whether this was a private organization coming in, nor were there details regarding what the approximately \$1.5 million that was being appropriated for this purpose was to spend for, whether that was for plans or design. It was unclear. Upon questioning, we were not able to determine what the purpose of the \$1.5 million was and so, while this may be a very valuable thing to pursue, I would urge you to reject the current motion at this time. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I'm going to keep this very brief. I just want to share some very brief thoughts from the department and why this is a very necessary bill. In their testimony they wrote, "Maine is currently combining forensic and civil patients at Riverview Psychiatric Center and this has resulted in complications due to the fundamental differences in evaluative and treatment needs associated with civil and forensic mental health populations. As the department has reported, the national standard of care is not to combine these two populations and this bill proposes to go a long way towards separating these populations, meeting their special needs, and, therefore, permitting more appropriate evaluation and treatment for civil and forensic patients." I would go on but I know we have a lot to do today. All I'll say is we've been dealing with the problem at Riverview, we've been under this for a while. It's been costing us a lot of money and we're trying to make sure that we can fix these problems in a way that is responsible to taxpayers and also worked for the needs of the patients. As Senator Haskell stated, this is a very good idea. This will go a long way to fixing those problems. I do think that there is some time sensitive nature to this and I think if we continue to simply just sit on it that the problems aren't going to fix themselves. Thank you very much, Mr. President.

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

Senator **HASKELL:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I want to add just a couple of numbers to the information here that's provided by the department. The annual cost for each one of the individuals here would be \$370,000, utilizing 50 beds with an anticipated total annual operating cost of \$18,500,000. In order to secure a contract with providers to encumber these funds the first month's services would be appropriated. That's the \$1.5 million. Once again, there are no details. There's no design. There's no understanding of the size or if the 50 beds is right or wrong and \$18.5 million is an awful lot of money to set ourselves up for without more information. Thank you.

**THE PRESIDENT PRO TEMPORE:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to Accept the Minority Ought to Pass as Amended Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#279)**

**YEAS:** Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DUTREMBLE, EDGECOMB, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

**NAYS:** Senators: ALFOND, BREEN, DIAMOND, DILL, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, SAVIELLO, VALENTINO, WOODSOME

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (H-334) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

---

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORT - from the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Improve Snowmobiling in Maine"

H.P. 725 L.D. 1056

**Report - Ought to Pass as Amended by Committee Amendment "A" (H-179)**

In House, June 17, 2015, Report **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

In Senate, June 17, 2015, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-179)**.

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

On motion by Senator **DAVIS** of Piscataquis, the Senate **INSISTED**.

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 **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Better Serve the Seasonal Tourist Market during the 2015 Summer Season and Early Autumn with a Pilot Program To Extend the Authorized Hours during Which Liquor May Be Served" (EMERGENCY)  
H.P. 980 L.D. 1436

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

Signed:

Senators:

CYRWAY of Kennebec  
COLLINS of York  
PATRICK of Oxford

Representatives:

LUCHINI of Ellsworth  
GOLDEN of Lewiston  
HANINGTON of Lincoln  
KINNEY of Limington  
LONGSTAFF of Waterville  
MONAGHAN of Cape Elizabeth  
SAUCIER of Presque Isle  
SCHNECK of Bangor  
TURNER of Burlington

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-446)**.

Signed:

Representative:

DILLINGHAM of Oxford

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

Reports **READ**.

On motion by Senator **CYRWAY** of Kennebec, the Majority **UGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

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 Assigned (6/11/15) matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Maine Residents To Personally Import Medications as Permitted under the Federal Food, Drug, and Cosmetic Act" (EMERGENCY)  
H.P. 968 L.D. 1422

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

Minority - **Ought to Pass** (6 members)

Tabled - June 11, 2015, by Senator **VOLK** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **UGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, June 9, 2015, the Minority **UGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, June 11, 2015, Reports **READ**.)

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK**: Thank you, Mr. President. Those of you who have served in the Senate in the previous session will remember L.D. 171, which dealt with the importation of prescription drugs from outside of the country. You might also recall having read in between that legislation did, in fact, pass and was allowed to go into law by the Chief Executive. Then the State of Maine was faced with a lawsuit. That lawsuit actually resulted in the State of Maine losing. I have a letter here from A.G. Mills, which I will read in a few minutes. This is similar legislation, which would allow individuals to import medications. However, it's still in violation of the federal government's laws regarding food and drug administration. Importation of prescription medicines by anyone other than a drug manufacturer is illegal. Prescription medicines are regulated in the United States by the Federal Food and Drug Administration, the FDA. Nothing a state does, either legislatively or regulatory, can override this primal federal authority over prescription medications. In fact, the United States District Court for the District of Maine ruled on just this issue earlier in 2015. In that case Judge Torresen states clearly that the complex regulatory system established by the Food, Drug, and Cosmetic Act's drug approval, labeling, and packaging provisions demonstrate a clear Congressional intent to tightly control prescription drug importation. Thus, the FDCA occupies the field of importation of pharmaceuticals from foreign countries. L.D. 1422 clearly runs afoul of this federal preemption.

I think that where, perhaps, the author of this legislation may have gotten a little bit confused is that the FDA does state that they are allowed to issue waivers to individuals. However, not a single waiver has ever been issued by the Secretary for Health and Human Services for the federal government. Thus, personal importation remains illegal under federal law, which means that were Maine to pass, were the Senate to okay, this legislation today and the House were to do the same and the Governor, excuse me the Chief Executive, was to allow it go into effect, we would find ourselves in court yet again and this time it would be very likely that the people would expect us to pay punitive damages. We were not assessed punitive damages the last time around, which means that we did not have to pay their legal costs. I would guess that would change this time around. It should also be noted that I did ask Attorney General Mills how much it cost us and she did tell me that it was within existing resources. However, I believe that it was an 18 month long lawsuit. I'm going to sit down with that. Thank you.

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

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

Senator **PATRICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, this is the not the CanaRX. The CanaRX was determined not to be legal. That was for policies that dealt with whole companies and this is actually for individual importation. I believe this is actually doing what is allowed within the FDA guidelines. In most circumstances, it is illegal for individuals to import drugs into the United States for personal use. This is because drugs from other countries that are available for purchase by individuals often have not been approved by FDA for use and sale in the United States. For example, if a drug is approved by Health Canada's FDA counterpart in Canada but has not been approved by the FDA it is an unapproved drug in the United States and, therefore, illegal to import. FDA cannot insure the safety and effectiveness of the drugs that it has not approved, but the FDA, however, has a policy explaining that it typically does not object to personal imports of drugs that the FDA has not approved under certain circumstances, including the following situations: the drug is for use for a serious condition for which effective treatment is not available in the United States, there is no commercialization or promotion of the drugs to U.S. residents, the drug is not considered to represent an unreasonable risk, the individual importing the drug verifies in writing that it is for his or her own use and provides contact information for the doctor providing treatment or shows the product for its use for the continuation of treatment begun in a foreign country, and generally not more than three month's supply of the drug is imported.

Mr. President, I believe that this is allowed to happen and I think we should because what are we looking at? Who's really fighting this? Big Pharma. The industry has proved to be an industry that's willing to take the lifeblood out of the American economy and world economy through the overpricing. As a matter of fact, these same people spend more money in advertisement than research. What we're looking to do is to help individuals save hundreds, if not thousands, of dollars by importing drugs. If you want to import a drug from England you're

going to have your doctor send the prescription to England. It's going to go to a pharmacist in England where a chain of command of that drug is going to be directly handled by him. The drugs are bought directly from the manufacturer to the pharmacist and there is no chain of command that's broken and you're going to get it in two days. The second most expensive country in the world for drugs is Canada, yet they are about 60% cheaper than America. Here we are, unwilling to take a chance at saving our citizens in the state of Maine millions of dollars. That's absolutely not right.

The Attorney General's Office has to defend any law that comes before us and if, in other situations, they want to bring cases against the State of Maine we're going to have to defend them. Our liquor laws, half of them, I think, are against the three tiered system and they could be challenged at any time. What I'm talking about is I'm willing to take this chance where it's actually following FDA recommendations that it's okay to do to save our citizens thousands of dollars. We're not talking about group policies, which was determined by the court system not to be legal. In this instance, I believe that you can individually get your drugs probably about 80% cheaper than you're spending right now and if it's going to be taking thousands, if not millions, of dollars away from Big Pharma I'm for it. Mr. President, I would ask everyone to vote against the motion and pass the bill for the citizens of the state of Maine.

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

Senator **BRAKEY:** Thank you, Mr. President. I'll keep my comments brief. I've just got a single page here. I rise today in opposition to the Ought Not to Pass motion on L.D. 1422. While some may make the case that the feds have Constitutional authority to create this import ban, I just want to bring us back to James Madison, who had some advice for us. Here's what he had to say in Federalist Number 46, "Should an unwarrantable measure of the federal government be unpopular in particular states, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people, their repugnance and, perhaps, refusal to cooperate with the officers of the Union, the frowns of the executive magistracy of the state, the embarrassments created by the legislative devices, which would often be added on such occasions, would impose in any state difficulties not to be despised would form, in large state, very serious impediments and where the sentiments of several adjoining states happen to be in unison would present obstructions which the federal government would hardly be willing to encounter." In short, Madison tells us that even if something the federal government does is Constitutional, if it's unpopular it's appropriate for the states to use its legislative devices to push back and refuse to cooperate. This is exactly what we, in the Legislature, are doing for our residents. This policy is free market and pro-competition. This policy benefits consumers and I can certainly understand why companies that benefit from protectionist trade restrictions would oppose it. No one likes competition and I can certainly understand them advocating for their interests. I would just say that in the 125<sup>th</sup> Legislature the House and Senate voted to allow the purchasing of health insurance across state lines as a means to increase competition and healthcare affordability. I see no practical or philosophical difference between these two policies.

Let's embrace the free marketplace, increase consumer choice, and bring down the price of healthcare for Maine's people. Thank you very much, Mr. President.

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

Senator **GRATWICK:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I rise to speak against this particular motion. Specifically, I think this is a reasonable step, a reasonable bill. My perspective is that over the next ten years we're going to be purchasing medications in a very different way. It's going to be a slow, incremental step. I have a dual medical license, a border physician, which is to say from Bangor I can prescribe medicines for a patient in Washington and Aroostook Counties using a Canadian medical license because of reciprocity. People can get their medicines significantly less expensively in Canada. I acknowledge that right now the court has decided against this. On the other hand, I think it is extraordinarily important for our patients, for our economic health, and for decreasing costs of medicine in our system, that this bill go forward and we continue to push. There will be another bill to this next year, next year, and next year and eventually this issue, which is not about patient safety, I'm convinced this is about money, eventually this will be decided in favor of the patients. Thank you, Sir.

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

Senator **KATZ:** Thank you, Mr. President. Men and women of the Senate, I've actually voted for this bill four years ago, I guess now, in the 125<sup>th</sup>. There are legal issues involved and as, I think, the only practicing attorney in the Senate I feel an obligation to stand up and speak on it. Before I do I should disclose that I got a B- in Constitutional Law, so maybe you ought take whatever I say with a grain of salt. There are areas where Congress preempts the field, so to speak, when federal laws and state laws are in conflict. The Supremacy Clause in the Constitution says that the federal law can occupy the entire field and overcome, or trump if you will, what the state has done. That's what Judge Torresen found happened in this case when she heard this case in the First Circuit. She said that in this case federalism adopts the principle that both the national and state governments have elements of sovereignty the other is bound to respect. From the existence of two sovereigns follows the possibility that laws can be in conflict or at cross-purposes. In this case the federal law preempted the field. I don't agree that it applies only to group sales or company sales of drugs and not the individuals. I think the regulation, or at least the advisory, that someone had referred to wasn't talking about whether importation of drugs by individuals was legal or not, it was talking about, given the FDA's limited resources, whether the FDA would choose to go after individuals for enforcement purposes. I think that they were saying that it probably won't because they've got to go after the big guys. It's clear, I think, Mr. President, that the passage of this law would violate the Supremacy Clause of the United States Constitution and likely would subject us to legal challenge. Thank you.

---

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

---

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#280)**

**YEAS:** Senators: BAKER, BREEN, BURNS, COLLINS, CUSHING, DIAMOND, DILL, EDGEComb, HAMPER, HILL, KATZ, LANGLEY, LIBBY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

**NAYS:** Senators: ALFOND, BRAKEY, CYRWAY, DAVIS, DUTREMBLE, GERZOFOSKY, GRATWICK, HASKELL, JOHNSON, MILLETT, MIRAMANT, PATRICK, VALENTINO

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **VOLK** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Ordered sent down forthwith for concurrence.

---

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

**SENATE PAPERS**

Bill "An Act To Authorize Increased Borrowing by the Maine Governmental Facilities Authority To Support the Maine Correctional Center in South Windham"  
S.P. 547 L.D. 1447

Presented by Senator ROSEN of Hancock. (GOVERNOR'S BILL)

On motion by Senator **HAMPER** of Oxford, **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and ordered printed.

Sent down for concurrence.

---

**ORDERS OF THE DAY**

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

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Work Permitting Process for Minors"

H.P. 943 L.D. 1393

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-437)** (6 members)

Tabled - June 17, 2015, by Senator **VOLK** of Cumberland

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

(In House, June 16, 2015, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 17, 2015, Reports **READ**.)

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

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

Senator **PATRICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I'm in opposition to this bill, this motion. I will read a little bit from the testimony from Maine Education Association. "We believe the education of students should be the priority of our communities and should be reflected in our laws. In reading through L.D. 1393, the first question that arose was: Why? What will the benefit be for students? What will the benefit be for education? I will continue to search for the answers to those questions as I consider the negative consequences of this bill. There are reasons that we have child labor laws. The Fair Labor Standards Act, FLSA, restricts the employment and abuse of child workers. The provisions are meant to protect the education of our children and keep them safe from dangerous jobs while restricting hours for work to encourage school attendance." I have a lot more testimony to give, but what I will say, Mr. President, is this is the slippery slope. Sometimes we look at doing a little bit that's going to help out but what happens is, down the road, we're looking at, sooner or later, having total use of child labor, 8 or 10 years of age, like we do in foreign countries that help make them more competitive than us. I don't want to see any regression of any of the child labor laws that are on the books. Thank you, Mr. President.

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

Senator **CUSHING:** Thank you, Mr. President. Colleagues of the Senate, I rise today in support of the pending motion. We have heard this debate many times before our committee, Mr. President, Labor, Commerce, Research and Economic Development. My good colleague from Oxford has been passionate but I do have to question the tendency of some of his logic. We do live in the 21<sup>st</sup> Century. We do live in a state that values our children. We've just proven that by how we have funded certain aspects of education and the commitment we have. We are a state where there is a declining workforce, particularly younger people. Maine people are always known for their industriousness. They are known for their creativity. I think they're also known for the care they take of their children. We have many small businesses and these businesses need to start people and train them. Many of these people are owner operators who know the people individually that work for them. We're not talking about major corporations. We're not talking about manufacturing facilities. I think we've all learned our lesson from Upton Sinclair and the tragedies that happened in this country with the abuse of labor. Today, Mr. President, hours change. The opportunities for younger people to work in different facilities, be they restaurants or retail, the hours have changed. We're no longer a 9 to 5, Monday through Friday society. When we deny these students the opportunity to develop those skills early on in life, to learn the responsibilities that many of us learned working in small businesses or on a farm, we also deny them the opportunity to improve their skill sets so that they can get the benefits of bartering that skill for better wages. When we talk about increasing wages in Maine, the best way to do that is allow our younger people to learn those skills at an age, and during a time, when they have proven to be responsible enough. I ask you, ladies and gentlemen, to reflect on your children, reflect on grandchildren or nieces or nephews you know, who have been denied the opportunity, at a young age, when they wanted to have some involvement in working. Give them that opportunity by passing this bill. Thank you, Mr. President.

---

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

---

**THE PRESIDENT PRO TEMPORE:** The pending question before the Senate is the motion by the Senator from Cumberland, Senator Volk to Accept the Minority Ought to Pass as Amended Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.



**ROLL CALL (#281)**

YEAS: Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGECOMB, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: ALFOND, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFSKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO

EXCUSED: Senator: VOLK

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **VOLK** of Cumberland to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, PREVAILED. READ ONCE.**

Committee Amendment "A" (H-437) **READ** and **ADOPTED.**

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

Ordered sent down forthwith for concurrence.

---

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Establish the Maine Fourth Amendment Protection Act"

S.P. 200 L.D. 531

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-275)** (9 members)

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

Tabled - June 17, 2015, by Senator **BURNS** of Washington

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

(In Senate, June 17, 2015, Reports **READ.**)

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

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

Senator **BRAKEY:** Thank you, Mr. President. I rise to oppose the motion on the Floor. On March 12, 2013, in a rare open

session of the United States' Senate Intelligence Committee, there was a short exchange between Senator Ron Wyden of Oregon and James Clapper, the Director of National Intelligence. Senator Wyden asked, "I hope we can do this in just a yes or no answer. Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?" Director Clapper responded, "No, sir." Not less than three months later a former NSA employee named Edward Snowden leaked information revealing that the NSA is conducting bulk data collection on all American citizens. This includes an NSA program called Prism, which captures the private data of citizens who are not suspected of any connection to terrorism or any wrong doing. This data of law abiding American citizens collected by Prism includes e-mails, chat video, voice, photos, stored data, file transfers, video conferencing, log-ins, and on-line social networking details. They do this without warrants and with little oversight. This is just one of the many NSA programs we know about. In 1975 Senator Frank Church warned America about the NSA. He told us that it created the potential for "total tyranny." Forty years later, Congress has failed to do anything to protect the American people from the surveillance state. In fact, Congress has made the NSA more powerful and more intrusive. It's clear we can't count on Washington D.C. to protect the American people from the federal government's surveillance programs. Even if Congress were to pass substantial reforms or allow provisions of the Patriot Act authorizing bulk phone surveillance to expire, a recently declassified court order indicates spying would likely continue. That leaves it up to the states to take action, like we are doing here today in Maine to protect the privacy of Maine citizens.

It is known that the federal government shares warrantless data with state and local law enforcement and then encourages them to create parallel investigations to hide the source of the information. Former NSA Chief Technical Director, William Binney, has called this practice the country's greatest threat since the Civil War. Reuters revealed the extent of this NSA data sharing in an August 2013 article. According to documents obtained by the news agency, the NSA passes information to police through formerly secret DEA units known as Special Operations Divisions and the cases "rarely involve national security issues." Despite the constant justification of these programs as necessary for countering terrorism, almost all of the information involves regular criminal investigations, not terror related investigations. In other words, not only is the NSA collecting this data and building profiles, they are encouraging state and local law enforcement to violate the Fourth Amendment by making use of this information in their day-to-day investigations.

Some say if you have nothing to hide you have nothing to fear. To those, I would ask them to post publicly on-line, for the world to read and dissect, all the contents of their e-mail accounts, their on-line browsing history, and all their text messages. I doubt they would do so. Just because you are doing nothing wrong does not mean that you do not have a right to privacy in your personal affairs.

I would also pose a question to proponents of unlimited surveillance. The argument of if you have nothing to hide you have nothing to fear, was this true in 1963 when the federal government spied on Martin Luther King, Jr., wiretapping his phone as well as bugging his office and hotel rooms in an attempt to connect him with the Communist Party? According to CNN, "The almost fanatical zeal with which the FBI pursued King is

disclosed in tens of thousands of FBI memos from the 1960s." While they found no Communist connection, they did find embarrassing details about his private life, which they did proceed to use against him. As CNN reports, "When King learned he would be the recipient of the Nobel Peace Prize in 1964, the FBI decided to take its harassment of King one step further, sending him an insulting and threatening note anonymously. A draft was found in the FBI files years later. In it the FBI wrote, 'You are a colossal fraud and an evil and vicious one at that.' The letter went on to say, 'The American public will know you for what you are; an evil, abnormal beast. Satan could not do more.' The letter's threat was ominous, if not specific. 'King, you are done.' Some have theorized the intent of the letter was to drive King to commit suicide in order to avoid personal embarrassment. 'King, there is only one thing left for you to do,' the letter concluded. 'You know what it is, you'd better take it before...' I'm not going to read the rest of that because it's pretty abominable. Why would Martin Luther King have been a target for surveillance by the federal government? FBI memos clearly lay out their goal at the time, neutralizing King as an effective leader in the African American community. King was a change agent in society and threat to the political status quo. With the passage of time, we can look back and clearly see that what the federal government did to Martin Luther King was wrong and MLK and the dreams he fought for are above reproach today and, with 20-20 hindsight, we all admire the work he did to change this nation. In 1963 those dreams were not so popular with everyone and that made him a target for our federal government.

With the advance of technology since 1963, how might the federal government misuse those powers now? Who are the change agents of today and could they become targets for these illegal actions? Unfortunately, not only politically controversial citizens risk being targets for abuse of these programs. There have even been documented cases where NSA agents abused their power to spy on their girlfriends and boyfriends. In America, government power is to be tempered with Constitutional protection. The Fourth Amendment is that protection, requiring our government to get a warrant from a judge, demonstrating probable cause and "particularly describing the place to be searched and the persons or things to be seized." Here in Maine we have a solid track record in protecting privacy. In fact, the need to protect electronic data from warrantless collection is a settled issue. Just two years ago we passed a law requiring law enforcement to obtain a warrant before collecting electronic data in most cases. NSA data sharing threatens to obliterate the protections we put in place. We need to pass L.D. 531 in order to maintain our current protection for Maine's people and federal end-runs past state law.

We may not be able to stop the NSA from spying on Mainers, but we sure don't have to help. L.D. 531 would ban state support for any federal agency engaging in warrantless surveillance, in so far as much as they are conducting those practices. It will send a strong message to the NSA, drive reforms, and have practical effect. You might be asking yourself: can we legally do this? The answer is yes. L.D. 531 rests on a rock solid legal principle known as the Anti-Commandeering Doctrine. The Supreme Court has repeatedly upheld this principle, that the federal government cannot require states to expend resources or manpower to help carry out its acts or programs. Four major court opinions uphold this principle. Whether or not Maine can refuse providing materials, support, and resources to the federal government is a settled issue. That just leaves one question for

us to answer: are we going to continue to support warrantless spying? Mr. President, I invite the Body to join me in passing this important legislation and protecting the Fourth Amendment for Maine's people. Thank you very much.

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

Senator **DIAMOND:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I'll just try to boil this down to exactly how it affects us in Maine. It won't take long. What this will do, the biggest problem with this bill, is that it will have a tremendous impact on the computer crime unit, which is the reason why the Assistant Attorney General who works with the computer crime unit opposes this, along with the Attorney General. Here's how that works. The computer crime unit collects data and information in a lot of different ways, all legal. This bill will have, according to the Attorney General and others, a negative effect on the computer crime unit and the information they collect and they share with the federal government. That's critical. I think the last thing we want to do is put a clamp on the information that the computer crime unit people and what they do to collect this information. It's very, very difficult to collect legal, useable information. Unfortunately, this bill would be a tremendous obstacle to overcome for the men and women who work at this every day, doing their best to shut down the child porn sites and arrest people who are predators. Thank you very much, Mr. President.

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

Senator **BURNS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm going to try to be as quick as possible on this, but I'm very, very concerned about this legislation. I'm not going to skip over everything that I intended to say. This bill, as far as I'm concerned and as far as many are concerned, would severely and adversely impact current law enforcement in this state and their ability to detect and prosecute crimes that have just been mentioned by the good Senator Diamond. Not only child pornography, but also drug trafficking, missing and exploited children, homicide investigations, terrorism threats to this state, and many other serious crimes that face us today in this age that we live in. Had this been in effect in the State of Massachusetts back when the Boston bombings took place the local authorities never would have found the two culprits that were responsible for that because they would have had to have gone through several hundred search warrants in order to track down the information that lead to the location and the individuals responsible for the horrific act. Maine authorities, and I know this for a fact and many of you do from the history, follow a very strict and carefully put together set of guidelines that come from our statutes and come from our courts and our law courts. They do not suppress evidence. When they do the court holds them accountable. Our courts, and our law courts, are very vigilant in protecting our Fourth Amendment rights in this state.

A little sideline, when I became a law enforcement officer I took a pledge, just like many of you did when you came in here, to uphold the Maine and U.S. Constitution. Every law enforcement officer in this state, and every federal law enforcement officer, does the same thing. Obviously, there are violations from time to time of that oath and when there are they

are severely dealt with, with the court and evidence that is gained is suppressed. I'm going to ask you to indulge me for a moment. I need to read a couple of things that came in the testimony in our committee during this hearing. One is from the Department of Public Safety. Major Grotton delivered this message to us, talking about the crimes that this would impact, "There is a wide number of situations in which the state, county, and local governments exchange or provide information to various federal agencies. These include collaboration on investigative matters such as potential terrorism cases, homicides, child sexual exploitation, interstate domestic violence, stalking cases, interstate drug trafficking, interstate computer hacking and data breaches, along with many other serious incidences. This bill would effectively prohibit the very partnerships in a rural state like ours that law enforcement and citizens depend upon." I think we ought to heed that advice. I also want to very quickly synopsise a couple of quotes out of the three page document that came from the Attorney General's Office. Assistant Attorney General Marchese delivered this on behalf of our Attorney General. "This bill would seriously undermine the public interest and the public safety. The Fourth Amendment and whether a citizen has a reasonable expectation of privacy in a particular place or thing govern this. This bill turns that concept on its head and boldly presumes that any and all data should be protected from government access for all purposes. This bill would reward child pornographers. It would prevent us from enforcing labor laws. It would hinder our ability to locate lost and exploited children. It would facilitate illegal drug trafficking into the state. It would hamper our ability to prosecute welfare fraud and homicides and many other important things." Another section of the three page report, "L.D. 531 would hamstring law enforcement and prosecutors in Maine as we do our very best to protect the public in common purpose with regulators and law enforcement from the federal government. The bill also ignores the reality that Maine officials are already restrained by the Fourth Amendment." One more, if I may, "The National Center for Missing and Exploited Children sends to our computer crimes taskforce unit cybertips and referrals from internet service providers when they do discover child pornography. The NCMEC works in partnership with the U.S. Department of Justice to help law enforcement find missing children, eliminate child sexual exploitation, and prevent child victimization. Since the NCMEC works as a partner with the United States Department of Justice, this bill would greatly restrict our ability to locate lost and exploited children." I think we ought to pay close attention to the advice from these people that we have put in these positions, to oversee the implementation and the exercise of criminal justice matters in this state.

This state has a very good record, as I think all of you know and appreciate, of working within the confines of the law, in the courts, that have set before us. Again, when those few violations do take place, any evidence that has been acquired as a result of those breaches is suppressed. Please keep in mind that these laws are in place to protect us and our children. They are scrutinized carefully by our court and our safety and wellbeing is protected by the Fourth Amendment. Passing of this bill, in my opinion, would put our citizens and our children in great jeopardy and set law enforcement and criminal justice proceedings in this state back many decades. I thank you very much, Mr. President.

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

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise before you today to oppose L.D. 531. It is the job of law enforcement officers to serve and protect the citizens of this great state. This bill, though well intentioned, would inhibit law enforcement's ability to do so. As the Maine State Police testified, there are a wide number of situations in which state, county, or local governments exchange or provide information to various federal agencies. These situations include potential terrorism cases, homicides, child sexual exploitation, domestic violence and stalking cases, and drug trafficking cases. I've worked on cases where the exchange of information has been necessary. To prevent law enforcement from exercising this tool would be a disservice to the victims of these cases. Think of your family. Would you want law enforcement to be able to exercise every tool available to them to help? This bill would hinder the ability to get that job done. We are very fortunate that we feel safe in this country. Let's not take that feeling away from someone we care about.

I have to tell you that I, personally, had a situation that a man was peeping in my windows and watching my daughter, who was 10 years old. He had a rap sheet in the town that he had lived in that was about an inch and a half thick of peeping tom type complaints. He was never charged because they couldn't prove it. I looked into his background and he had immoral exposure of body parts in the military. I would not have been able to get that information if this bill was present. I also found out where he was and where he resided. I found out all this information and then I waited for him. Guess what? He came by my house again and I pulled him over and I had that information and I said, "You know I've got a couple of complaints that they've seen this individual up on my yard, running down the hill, in a plaid shirt, kind of like the one you've got on and with this same license plate and same description of the car. I've got all this information about you." After he said, "I don't even know what you're talking about." I said, "Do you think I'm just making this up?" Anyways, I gave him a warning and I didn't have the evidence that I wanted at that time but I also gave the information to other law enforcement officials where he lived and the area he worked at and whatever. Within a week he sexually assaulted another girl. He confessed to looking in our windows and could tell you every little thing that was in my daughter's room. I can't explain enough that this is also an individual that is a suspect for a possible rape and a murder situation that has not been solved yet. Tell me that this isn't an important piece. This is very important. I don't want to see one button for this bill. I think this bill is a travesty. Thank you.

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

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, is it a travesty to expect that our Constitution be abided by? If we cannot do the job of law enforcement without complying with our Constitution then what are we as a nation? Are we throwing it out the window and saying let's be a police state and be sure that we prosecute anything and everything we want to? I think not. I feel very strongly about our prosecuting, our investigating, and our solving crimes of children being abused, of sexual predators, all of those things that concerns have been raised about here today. If we can't do that lawfully then we'd better get smarter about how we're doing it and find a smarter way to do it lawfully.

Just in the last legislature we passed, against the objections of the Attorney General, protections of some of our data. Cell phone location information, we had a bill on that as well and tried to do that. We made sure, when we were working those bills, to put in provisions for public safety exceptions to the warrant requirement. It says here in this bill that metadata can be shared or facilitate federal agency collection or use for person's electronic data, or metadata, only if it provides several qualifying conditions. One of those is the state, the political subdivision of a state, or a federal agency is acting in accordance with a legally recognized exception to the warrant requirements. The kinds of things you're talking about with the bombing in Boston, I can tell you for sure that if Boston and Massachusetts don't have laws that allow for public safety, exceptions to the warrant, then they're doing something wrong in their laws and that needs to be fixed. To suggest that we shouldn't comply with the laws and the Constitution, frankly, that's not the right way to stand up for protection of citizens.

There have been concerns raised about access to data on pornography out on the internet. Another one of these is the electronic data, or metadata, is otherwise in the legal possession of the state or its political subdivision. If an internet service provider, under its acceptable use policies, find and forwards information regarding illegal activity to a law enforcement agency it is then lawfully in the hands of the state law enforcement agencies. Great, use it, investigate and prosecute, but it's provided for right here. We are not going to make the people of this state or this country safe by throwing out the window our Constitutional protections of the people of this country. We have to work within them and we have to do the job smartly and we have to do it well. Can't get lazy and say, "Well, I find it more convenient to simply illegally obtain that data, so I'm going to." I know the temptation for such a decision is large when something as important as child pornography or abuse is involved, but our Constitution still is there for a reason. Find the legal way to obtain that information. Lots of that information, if it's not provided by an internet service provider or website post based on a violation of the acceptable use policy, can be found publicly. If it's on the internet you can access it. That's not illegal. The State can be legally in the possession of something that's public. It's publicly accessible.

This is the kind of protection, not letting law enforcement be lazy in doing their job, not violating our Constitution in order to do their job. It's saying to follow the Constitution, do the job right, and, frankly, if you can point to a good example why these conditions don't allow you to do something that should be Constitutional, then I'd be very glad to introduce changes to this bill. The point of this is not to interfere with law enforcement doing things that are Constitutional, but to make clear, in this state, that we will not do things to abet the federal government's unconstitutional activities that have already been established are occurring. Thank you, Mr. President.

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

Senator **BURNS:** Thank you, Mr. President. I appreciate the opportunity to stand up for the second time. There are a couple of things I want to respond to. I'll be very careful how I respond to them, but I completely reject some of the statements and inferences that have just been made on behalf of myself, my career, and all the good men and women who have sworn to

protect us in this state. I reject the inference that law enforcement is lazy. Like any occupation, there are bad apples, but law enforcement's not lazy. Law enforcement uses those tools that are put in front of them. Those tools have been implemented through legislatures and through review of the court system and the law courts. I reject the idea that information in this state is being hidden, sources of information is being hidden. I've never seen that take place. In fact, quite the contrary. I don't know of any more transparent entity that there is than the law enforcement because each and every thing that they do becomes a part of a public record once it gets into the court system. I think it's awful easy to have an opinion about something that maybe you haven't had a lot of experience with and, in particular, law enforcement works under the Constitution, tries to follow the Constitution to the very best of their ability. The courts, from time to time, has found exceptions to the search warrant requirements for the Fourth Amendment. That's not me and that's not the Legislature, that's our law court. A good example is search incidental to an arrest does not require a search warrant. That's a legitimate exception to the Fourth Amendment. Law enforcement officers follow that exemption. Until the court deems otherwise, they'll continue to follow that for good public safety purposes and in consistency with the U.S. and the Maine law courts. Please, don't insinuate that law enforcement is lazy, not following the Constitution, or violating the law. That is not the case, ladies and gentlemen. They follow the law. The court makes those decisions and if they are out of the line for following the law then they are sanctioned for it. I thank you again for the second time to speak.

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

Senator **BRAKEY:** Thank you, Mr. President. I'll keep my comments brief. I just want to refocus on what it is this bill actually says and what it actually does. My colleague, the Senator from Lincoln, touched on this a little bit, but I just want to refocus on this. If you read the actual language of this bill, "The State and its political subdivisions may assist, participate with, benefit from, or provide material support or resources to enable or facilitate a federal agency in the collection or use of a person's electronic data or metadata only if," and there are four qualifications there. One, the collection is pursuant to that person's informed consent. The person has volunteered this information or made this information publicly available. It's out there. I know we heard from the Attorney General on this and I tell you it left me somewhat scratching my head. I know talking to other members of the committee, it left them somewhat scratching their head. She suggested that this bill would not allow people to use census data. Census data is voluntarily surrendered to the government. Many of us were left scratching our head and never got an explanation for that. Law experts we had look at this thought that that was completely off base. Two, the collection is pursuant to a warrant based upon probable cause that particularly describes the person, place, or thing to be searched or seized. This is the Fourth Amendment. A warrant as described in the Fourth Amendment. Then we have two other components here. Three, the state, the political subdivision of the state, or the federal agency is acting in accordance with a legally recognized exception to the warrant requirements. I don't know how more broad you can get on that. That's incredibly broad. We have a lot of these exceptions built into the law and as long as you're fulfilling that, all's well. We went one step further,

actually at the request of the State Police who brought to us what I thought was a reasonable amendment, a reasonable concern to cover a situation that they brought to us that we may not have thought of, that the electronic data or metadata otherwise in the legal possession of the State or its political subdivisions. That's incredibly broad too, but this was specifically to cover cases the State Police talked about where maybe someone brought an anonymous tip to them or brought information to them. We thought that was completely reasonable. It's otherwise in the legal possession of the State and this was an amendment from the State Police that we were happy, we were happy, to incorporate. Then we went one step further to specify what specific data, metadata, we are talking about. This section applies to electronic data and metadata associated with a person's landline, cellular, or satellite telephone, handheld electronic devices, global positioning system device, personal computer, e-mail account, private messaging service, or cloud database service. We're specifying specifically what we're talking about. We have the exceptions built into the law. All we're asking is that we hold the federal government to the same standard that we hold ourselves when we're using that information or we are helping them in the collection of that information.

I don't think the Fourth Amendment is an unreasonable standard. I want more surveillance on people who are breaking the law. I want more surveillance on terrorists and criminals. You know what? You go to a judge and you get a warrant. Our Founders set that up for a reason, because it protects all of the rest of us too. Benjamin Franklin once famously said, "Those who give up a little bit of liberty to gain a little bit of security will lose both and deserve neither." Do you know what would make us absolutely safe? We could put a video camera in everyone's home and have everyone watching it. You know what? We'd all be pretty safe, but what would we have given up? We may not realize the level of surveillance we're under on a day-to-day basis. We might not realize we're carrying tracking devices around with us everywhere in our cell phones. You know what? When you think about it, it starts to get pretty scary that that information is out there. You can tell a lot about someone from some of the basic information that's out there. All we're asking is to obey the basic Constitutional protections around this. Thank you very much, Mr. President.

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

Senator **JOHNSON:** Thank you, Mr. President. I'd like to start by apologizing if my poor choice of a word "lazy" offended anyone. I certainly don't mean to cast aspersions on the intent and the hard work of our law enforcement agencies and people. What I meant to say, however, is that when information is hard to get every tool available is not the best measure of what you should do. It's a measure of what you can do, but you may be crossing against the Constitutional protections of the Fourth Amendment. What I'm trying to get at is that these broad provisions for information legally obtainable and sharable with our federal government is intended to provide a way for law enforcement to do its job using Constitutionally correct tools and to do its job participating with the federal government in a way that doesn't enable the federal government in its course that NSA seems intent upon of violating our Fourth Amendment. We're looking for the help of the State of

Maine in protecting the privacy rights of Maine people. Thank you, Mr. President.

**THE PRESIDENT PRO TEMPORE:** The pending question before the Senate is the motion by the Senator from Washington, Senator Burns to Accept the Minority 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 (#282)**

YEAS: Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DILL, EDGEComb, GRATWICK, HAMPER, HASKELL, HILL, KATZ, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: BRAKEY, DUTREMBLE, GERZOFKY, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK, VALENTINO

EXCUSED: Senator: VOLK

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **BURNS** of Washington to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **PREVAILED**.

Sent down for concurrence.

---

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

---

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

---

Off Record Remarks

---

The Chair laid before the Senate the following Tabled and Later Assigned (6/12/15) matter:

An Act To Promote Community Broadband Planning and Strengthen Economic Opportunity throughout Maine  
H.P. 732 L.D. 1063  
(C "A" H-336)

Tabled - June 12, 2015, by Senator **CUSHING** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, June 9, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-336)**, in concurrence.)

(In House, June 11, 2015, **PASSED TO BE ENACTED**.)

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

Ordered sent down forthwith.

---

The Chair laid before the Senate the following Tabled and Later Assigned (6/10/15) matter:

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Lower Energy Costs and Increase Access to Solar Energy for Agricultural Businesses"

S.P. 376 L.D. 1073

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-253)** (2 members)

Tabled - June 15, 2015, by Senator **HILL** of York

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

(In Senate, June 15, 2015, Reports **READ**.)

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

Senator **SAVIELLO:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I brought this bill forward with a little bit of help from my friends because in rural areas we'll never see natural gas. We're never going to see those other forms of energy. However, on farms and places like that there are tremendous amounts of roof area on which solar panels can easily be installed and operate and help that farm community. I urge you, as you think about this, and, Mr. President, when I finish I will ask for a Roll Call, of the agricultural opportunities in your districts. This bill, if you pass it, will help those people, and this has been supported by the Farm Bureau. As I've said, the agricultural business has such large roofs or available lands that would be perfect for solar. This also gives us an opportunity for our people to learn how to install these things, maintain them, and help to continue to create jobs. The energy, unlike other sources of energy where the electricity is transported to another state, this electricity will stay home, on the farm. Mr. President, I ask for a Roll Call and I ask all to follow my light. Thank you very much.

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

---

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

---

On motion by Senator **SAVIELLO** of Franklin, **TABLED** until Later in Today's Session, pending the motion by Senator **WOODSOME** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report. (Roll Call Ordered)

---

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 Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2016 and June 30, 2017

H.P. 740 L.D. 1080  
(C "A" H-457)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and, having been signed by the President Pro Tempore, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

---

#### **ORDERS OF THE DAY**

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

SENATE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Lower Energy Costs and Increase Access to Solar Energy for Agricultural Businesses"

S.P. 376 L.D. 1073

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-253)** (2 members)

Tabled - June 17, 2015, by Senator **SAVIELLO** of Franklin  
Pending - motion by Senator **WOODSOME** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

(In Senate, June 15, 2015, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#283)**

YEAS: Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, EDGECOMB, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, WHITTEMORE, WOODSOME

NAYS: Senators: BRAKEY, HAMPER, LIBBY, THIBODEAU, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

EXCUSED: Senator: VOLK

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WOODSOME** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-253) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

---

The Chair laid before the Senate the following Tabled and Later Assigned (6/15/15) matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Base the Excise Tax Imposed on the Purchase of a Motor Vehicle on the Price Paid"

H.P. 77 L.D. 94

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-327)** (5 members)

Tabled - June 15, 2015, by Senator **CUSHING** of Penobscot

Pending - **FURTHER CONSIDERATION**

(In House, June 8, 2015, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 15, 2015, Reports **READ**. The motion by the Senator **MCCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report **FAILED**. The Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-327)** Report **ACCEPTED**.)

**READ ONCE.**

Committee Amendment "A" (H-327) **READ**.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-258) to Committee Amendment "A" (H-327) **READ**.

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

Senator **SAVIELLO:** Thank you, Mr. President. Simply, I had a surprise at the vote on this the last time so I amended the bill so that it really just directs. I heard from most of my constituents the complaint is that when they buy a new car, they negotiate a deal, and that's what the excise tax is based on. After that, once the car is used, you get in and drive it off the lot, and you register it in future years your excise tax will be based on what the normal process is. That's what the amendment does. Thank you very much.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-258) to Committee Amendment "A" (H-327) **ADOPTED**.

Committee Amendment "A" (H-327) as Amended by Senate Amendment "A" (S-258) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-327) AS AMENDED BY SENATE AMENDMENT "A" (S-258)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

---

The Chair laid before the Senate the following Tabled and Later Assigned (6/16/15) matter:

Bill "An Act To Preserve the Integrity of Maine's Shellfish Industry by Increasing the Penalty for Interfering with Permitted Harvest" S.P. 93 L.D. 255 (C "A" S-84)

Tabled - June 16, 2015, by Senator **CUSHING** of Penobscot

Pending - **CONSIDERATION**

(In Senate, June 16, 2015, Veto Communication (S.C. 446)  
**READ and ORDERED PLACED ON FILE.**)

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Sagadahoc, Senator Baker.

Senator **BAKER:** Thank you very much, Mr. President. Ladies and gentlemen, I would actually urge you very, very strongly to vote to Override the Governor's veto on this. This bill is absolutely vital to our shellfish industry in the state. It is a huge boon to our marine resources and I urge you to Override the Governor's veto.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### **ROLL CALL (#284)**

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, EDGECOMB, GERZOFKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, THIBODEAU, VALENTINO, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: None

EXCUSED: Senator: VOLK

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being excused, and 34 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

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

---

The Chair laid before the Senate the following Tabled and Later Assigned (6/15/15) matter:

Bill "An Act To Remove the Municipal Mandate To Enforce the Maine Uniform Building and Energy Code"  
S.P. 418 L.D. 1191  
(C "A" S-161)

Tabled - June 15, 2015, by Senator **VOLK** of Cumberland

#### **Pending - FURTHER CONSIDERATION**

(In Senate, June 11, 2015, on motion by Senator **VOLK** of Cumberland, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161).**)

(In House, June 12, 2015, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE.**)

On motion by Senator **DAVIS** of Piscataquis, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161).**

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-161).**

On further motion by same Senator, Senate Amendment "A" (S-297) to Committee Amendment "A" (S-161) **READ.**

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Mr. President. This amendment simply changes the size of the community that may have a referendum on the statewide building code from 10,000 down to 6,000. Communities between 4,000 and 6,000 could have a referendum to either opt in or opt out of the statewide building code. Thank you.

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

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

Senator **PATRICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I thank the good Senator for the amendment, although I am going to speak in opposition to the amendment as well as I did last time. Maine is already one of only ten states in the country that don't have a statewide code. L.D. 1191 is a major step backward for Maine's economy, businesses, energy costs, and homeowners. It was at 10,000 and it still is at 6,000. It was a regression when we went from 2,000 to 4,000 and there are thousands of workers in the state of Maine that will be adversely affected by this, as well as many businesses. I'm not going to read the whole various list of the many businesses that testified in opposition to this and I would ask everyone to vote against the motion. Thank you, Mr. President.

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

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, I just rise to clear up, if I am clearing it up. There seems to be some confusion that as this number's increased these municipalities are still required to have MUBEC



and that their builders must build to MUBEC standards and that the bill now only speaks about inspections. I find that not to be true by the bill language. This allows even more municipalities to not require builders to build to a code and we're going to deliver another round of less than efficient and reliable, strong, and lasting homes like we did for the last 30 or 40 years. I'm voting against this for that reason. We need to leave good homes to our next generation. Thank you.

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

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to this amendment as well. As a firefighter and a contractor, master electrician, I find it very disturbing that we would say that if you live in a community with the current code at 3,999 people that their safety doesn't matter, but if you live in a community with 4,001 their safety matters. I think it should be all or nothing. We should not be, definitely not be, expanding the amount upwards. If anything, we should be going down and make everybody inclusive to the code. Thank you.

**THE PRESIDENT PRO TEMPORE:** The pending question before the Senate is the motion by the Senator from Piscataquis, Senator Davis to Adopt Senate Amendment "A" (S-297) to Committee Amendment "A" (S-161). 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 (#285)**

**YEAS:** Senators: BAKER, BRAKEY, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, DILL, EDGECOMB, HAMPER, KATZ, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, VALENTINO, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

**NAYS:** Senators: ALFOND, BREEN, DIAMOND, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MILLETT, MIRAMANT, PATRICK

**EXCUSED:** Senator: VOLK

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAVIS** of Piscataquis to **ADOPT** Senate Amendment "A" (S-297) to Committee Amendment "A" (S-161) **PREVAILED**.

Committee Amendment "A" (S-161) as Amended by Senate Amendment "A" (S-297) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161) AS AMENDED BY SENATE AMENDMENT "A" (S-297)** thereto, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/16/15) matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require That 5 Percent of Signatures on a Direct Initiative of Legislation Come from Each County  
S.P. 272 L.D. 742  
(C "A" S-129)

Tabled - June 16, 2015, by Senator **CYRWAY** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, June 8, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-129)**.)

(In House, June 15, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-129) AS AMENDED BY HOUSE AMENDMENT "A" (H-417)** thereto, in **NON-CONCURRENCE**.)

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

The Chair laid before the Senate the following Tabled and Later Assigned (6/16/15) matter:

Resolve, To Ensure That MaineCare-eligible Children Have Equal Access to Providers of Dental, Hearing and Vision Services  
S.P. 242 L.D. 649  
(C "A" S-127)

Tabled - June 16, 2015, by Senator **MASON** of Androscoggin

Pending - **CONSIDERATION**

(In Senate, June 16, 2015, Veto Communication (S.C. 448) **READ** and **ORDERED PLACED ON FILE**.)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#286)**

**YEAS:** Senators: ALFOND, BRAKEY, BREEN, COLLINS, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, THIBODEAU, VALENTINO, WHITTEMORE, WILLETTE, WOODSOME

**NAYS:** Senators: BAKER, BURNS, CUSHING, CYRWAY, DAVIS, EDGECOMB, HAMPER, KATZ, LANGLEY, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

**EXCUSED:** Senator: VOLK

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, and 24 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

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

The Chair laid before the Senate the following Tabled and Later Assigned (6/5/15) matter:

**HOUSE REPORTS - from the Committee on ENVIRONMENT AND NATURAL RESOURCES on Bill "An Act To Allow Regulated Metal Mining in Maine"**

H.P. 503 L.D. 750

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-272)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - June 5, 2015, by Senator **SAVIELLO** of Franklin

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 4, 2015, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 5, 2015, Reports **READ**.)

Senator **SAVIELLO** of Franklin moved the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **SAVIELLO:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I'm making this motion today and asking you not to follow my light. I've not changed my mind about our statute or about these rules, which I believe are right for Maine. However, I believe that I have made and I have invested, as many of you know, four years of time and over 150

hours on these rules in law. What I realized when I went through this, this law and regulations do not represent the consent of what the citizens of the state of Maine want. If there is no social license to operate, the business environment needed for mining and the political environment required and the investor's evaluation of low political risk does not exist. This is also so critical for attracting high level management and investment to make a mine safe and operational in the state of Maine. I'm sure many of you wonder why I spent so much time on this subject. There are three reasons for me. One, I am a consumer of metals. I have copper in my house. I have a special family gold ring on my finger. I have gold in my cell phone. I have other metals in my computer. These metals come from someplace. The other day, thinking we were going to do this earlier, I passed out a number of things that shows you how much metal you use. Just read that. You will realize you are also a consumer of metals. Second article is that I will not, and do not, and will continue not to condone mining in third world countries that do not have mining laws or regulations. Again, I handed out in my packet to you a story that was published, I believe, in the 2013 National Geographic that talked about mining in the Congo. I just ask you to read that. Finally, my third reason is we have laws on the books. Title 36, Taxation, Part IV, Business Taxes, Chapter 371, Mining Excise Tax. Purpose: it is the policy of the State to encourage sound and orderly development of Maine's mineral resources. The objective of this policy is to ensure that the actions associated with the development of these resources will occur. Read Title 12, Conservation, Part II, Forests, Parks, Lakes, and Rivers, Chapter 201A, Geology and Natural Resources, Subchapter 3. It talks about mining on State lands.

As I talk about these, I wanted to bring them up to you so you're aware that we didn't do this in the bill. This is already in law in the state of Maine. Read Title 12, Conservation, Part 2, Parks, Forests, Lakes, and Rivers, Chapter 201A, Geology and Natural Resources, Subchapter 3. Mining on State lands. There is a Q and A that's there and it asks about what that is. It says, "Mining is strictly prohibited in all Maine State Parks." These are State owned lands, however submerged lands in which exploration for mineral deposits for mining are not prohibited. Not prohibited. It was not this law that did that. It was already in the book. Maine Revised Statute Title 12, Conservation, Geology and Natural Resources. It has a definition of State lands, which includes lands under lakes which are considered to be submerged lands. Our bill did not do that. It was already allowed. Finally, Chapter 38, which was what we did a couple of years ago, was Article 9, the Mine Metallic Mineral Act.

I just shared those with you. I ask you to read those at some point in time, but I didn't do the job. I didn't, and wasn't able to, pull together something that I think people would be comfortable with in understanding a very complicated issue. Maine has a global reputation for integrity, ingenuity, and doing things right. Everything we promote and value should honor these traditions of excellence and quality. I thought these rules we did did that. I was wrong. I will not give up. I will be back, as Arnold Schwarznegger said, but I have to do it in a different way than I did this before.

Let me close with a paragraph, the last two paragraphs, of a letter we received from the Attorney General. I will not bore you with the letter, but it was in the packet that I sent out earlier. This is a letter that was dated April 22, 2015. It was in response to a letter that we had sent, a request that we made, to the Attorney General's Office in relation to whether the statutes, or the rules,

would prevail if, in fact, we didn't do that. Linda Pistner wrote back to us, and I'll only read the last two paragraphs, "You indicate that the parties testifying before your committee have argued that this is transitional language, gives the existing rules the legal effect of a statute and that of the existing rules conflict with the statute the more stringent of the two controls. There is nothing in the language of paragraph 31, or the Mineral Act as a whole, that express such an intent. Since it is the fundamental that statutes control over rules, a court would expect any contrary intent to be clearly expressed. The Legislature, which had ample opportunity to do so, did not." What seems clear then, as she continues and closes, is, "The Legislature expected the new rules and the Mining Act to take effect more or less contemporaneously. As that did not occur, conflicts could arise when mining applications were filed with DEP before rules are finally adopted. If an agency decision concerning such an application were to be litigated many details not before us could affect the court's ruling. However, we believe the Mining Act would control over the rules in the case of a substantial conflict." Signed by Linda Pistner, Chief Deputy Attorney General.

As I said today, I ask you not to follow my light and vote for the Ought Not to Pass motion. Thank you very much, Mr. President.

On motion by Senator **SAVIELLO** of Franklin, 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 (#287)

YEAS: Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, VALENTINO, WHITTEMORE, WOODSOME

NAYS: Senators: BRAKEY, CUSHING, EDGECOMB, HAMPER, SAVIELLO, THIBODEAU, WILLETTE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

EXCUSED: Senator: VOLK

26 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **SAVIELLO** of Franklin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

---

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

---

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

#### COMMUNICATIONS

The Following Communication: H.C. 242

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

June 17, 2015

The Honorable Heather J.R. Priest  
Secretary of the Senate  
127th Maine Legislature  
Augusta, Maine 04333

Dear Secretary Priest:

The House voted today to insist on its former action whereby the Joint Order Establishing a Work Group To Plan the Transition to Funding Fifty-five Percent of Education Costs and One Hundred Percent of Special Education Costs as Mandated by the Voters at Referendum (S.P. 529) was Passed.

Sincerely,

S/Robert B. Hunt  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

---

#### REPORTS OF COMMITTEES

**Senate**

**Ought to Pass As Amended**

Senator McCORMICK for the Committee on **TAXATION** on Bill "An Act To Improve Tax Expenditure Transparency and Accountability"

S.P. 332 L.D. 941

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-296)**.

Report **READ and ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-296) **READ and ADOPTED**.

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

Sent down for concurrence.

---

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

---

Off Record Remarks

---

On motion by Senator **CUSHING** of Penobscot, **ADJOURNED**, until Thursday, June 18, 2015, at 10:00 in the morning, in memory of and lasting tribute to Roger Majorowicz of Whitefield.