

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

In Senate Chamber  
Monday  
May 16, 2011

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

Prayer by Senator Barry J. Hobbins of York County.

**SENATOR HOBBINS:** Thank you Mr. President. It is truly an honor and a privilege for me to be able to lead my colleagues in this opening prayer this morning. When my son, Liam, found out that I was going to give the prayer he suggested I share a prayer of St. Ignatius of Loyola. Liam will be graduating from high school on June 6<sup>th</sup>, from Cheverus High School which is an inclusive Jesuit Catholic preparatory school whose mission is to prepare young men and women to be people for others by fostering intellectual, spiritual, physical, and personal excellence. This is the hallmark of the Jesuit education. Liam is required, as all seniors are, to complete a supervised community service project in May of this year. That consists of volunteer work as well as preparing two 500 word reflective papers. Liam suggests St. Ignatius of Loyola because the historical roots of the Society of Jesus, the religious order known as the Jesuits, are traced back to the birth of St. Ignatius of Loyola. The word magus is the foundation of Ignatian spirituality and is the Latin word that means more. The magus focus is on what is judged to be of greater good. The more courageous response to the challenge of the times, referring not only to ideas in vision but also to action. In that spirit, let us pray. This is a prayer St. Ignatius prayer for generosity.

Lord, teach me to be generous. Teach me to serve You as You deserve, to give and not to count the cost, to fight and not to heed the wounds, to toil and not to seek for rest, to labor and not to ask for reward, save that of knowing that I do Your will. Amen.

Pledge of Allegiance led by Senator Rodney L. Whittemore of Somerset County.

Reading of the Journal of Thursday, May 12, 2011.

Doctor of the day, Gary Winn, DO, MPH of Arundel.

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

**COMMUNICATIONS**

The Following Communication: S.C. 359

**STATE OF MAINE  
125TH LEGISLATURE  
OFFICE OF THE GOVERNOR**

May 13, 2011

The Honorable Kevin Raye  
President of the Senate  
3 State House Station  
Augusta, Maine 04333

Dear President Raye,

This is to inform you that I am today nominating Lt. General Robert J. Winglass (Ret.) of Bath for appointment as the Commissioner of Labor.

Pursuant to Title 26, MRSA §1401-A, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development.

Sincerely,

S/Paul R. LePage  
Governor

**READ and ORDERED PLACED ON FILE.**

The Following Communication: S.C. 356

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

May 12, 2011

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

Dear President Raye and Speaker Nutting,

Pursuant to Joint Rule 310, we are writing to notify you that we have approved the request by the bill sponsor Sen. Thibodeau of Waldo, to report the following bill Leave to Withdraw:

L.D. 1455      An Act To Create Efficiencies in State Government by Transferring the Duties of the Public Advocate to the Office of the Attorney General

Sincerely,

S/Sen. Michael D. Thibodeau  
Senate Chair

S/Rep. Stacey A. Fitts  
House Chair

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

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### SENATE PAPERS

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Secretary of State, Attorney General, Treasurer of State and State Auditor  
S.P. 504 L.D. 1572

Presented by Senator PLOWMAN of Penobscot.  
Cosponsored by Representative FREDETTE of Newport and Senators: BARTLETT of Cumberland, GOODALL of Sagadahoc, President RAYE of Washington, THOMAS of Somerset.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

On motion by Senator THOMAS of Somerset, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

Sent down for concurrence.

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

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Senate at Ease.

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Senate called to order by the President.

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### ORDERS

#### Joint Orders

Expressions of Legislative Sentiment recognizing:

The YMCA Alliance of Maine, which provides vital services throughout the State. The 17 YMCAs in the State collectively serve over 100,000 people each year. The YMCA is an association of men, women and children of all ages and from all walks of life joined together by a shared passion: to strengthen the foundations of community. With a commitment to nurturing the potential of young people, promoting healthy living and fostering a sense of social responsibility, the programs and services of the YMCAs ensure that every individual has access to the essentials needed to learn, grow and thrive. We send our appreciation to

the YMCA Alliance of Maine on its contributions to the State of Maine and we send our best wishes for future success;  
SLS 263

Sponsored by President RAYE of Washington.  
Cosponsored by Representative: STRANG BURGESS of Cumberland.

**READ.**

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

Senator **COURTNEY**: Thank you Mr. President. Men and women of the Senate, I just want to give out a hearty welcome to the YMCA Alliance of Maine today and thank you for taking time out of your busy day to come up and tell your story here in Augusta. Thank you, it's an honor to have you all here today.

**PASSED.**

Sent down for concurrence.

**THE PRESIDENT:** The Chair is very pleased to recognize in the rear of the Chamber representatives from the YMCA from 18 branches of the organization across the state, here in honor of YMCA Advocacy Day. Would they please rise and accept the warm greetings of the Maine Senate.

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### Off Record Remarks

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

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### REPORTS OF COMMITTEES

#### House

##### Ought to Pass As Amended

The Committee on **MARINE RESOURCES** on Bill "An Act To Provide Equal Treatment to Members of the Penobscot Nation with Regard to Marine Resources Licenses" (EMERGENCY)  
H.P. 441 L.D. 558

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-211)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-211)**.

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

**READ ONCE.**

Committee Amendment "A" (H-211) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Delay the Implementation of the Rental Housing Radon Testing Requirement"

H.P. 783 L.D. 1048

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-212)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-212)**.

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

**READ ONCE.**

Committee Amendment "A" (H-212) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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#### Divided Report

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Extend the School Year"

H.P. 10 L.D. 18

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-205)**.

Signed:

Senator:

ALFOND of Cumberland

Representatives:

EDGEcomb of Caribou  
JOHNSON of Greenville  
LOVEJOY of Portland  
McFADDEN of Dennysville  
NELSON of Falmouth  
RANKIN of Hiram

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

Signed:

Senators:

LANGLEY of Hancock  
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel  
MAKER of Calais  
McCLELLAN of Raymond  
WAGNER of Lewiston

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-205)**.

Reports **READ**.

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

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

Senator **ALFOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, I wish to speak on behalf of the Majority Report coming out of committee. I don't think there is an expenditure in State government more important than education expenditures. I'm always going to think that probably until I serve on another committee. Until I do, I'm going to be fighting hard every single opportunity I get to talk about education and how we fund education. Money isn't necessarily the whole equation to this discussion because we're adding five days to the school year. Adding five days to the school year some might say that it's just a small little idea, but that small little idea would actually move Maine from being one of the states that has the fewest days per calendar year into a higher ranking. It also would move us to a place where around the world most of the countries that are way above us in not only statistical areas but also just generally on how they are educating their young people, their students, for the workforce. They are going to school well over 185 days, which is what this piece of legislation would do. Study after study shows the more time you spend in school, the more effective time you spend in school, benefits not only the student but also benefits that state. I'm very proud of being in the Majority on this piece. I think it is the right thing, it's the right statement. This is not just symbolism. This is where the state should go. We have many bills that come before the Education Committee that are just tinkering, that are just kind of fixing one little thing. This is actually fixing the entire state's problem of having a very, very short school year, a very short school calendar. I very much would love people to follow my light.

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 Hancock, Senator Langley.

Senator **ANGLEY**: Thank you Mr. President. Men and women of the Senate, I would have to agree, in part, certainly with the good Senator who serves next to me on the Education Committee. As you see, when we see a fiscal note of \$6 million and the projections of \$12 million and \$16 million, it's with a

heavy heart that you vote the Minority Report. Having said that, many districts, on their own, have worked out and negotiated above the 180 day minimum. In my district that I taught in did that a number of years ago. They figured out if they could do it fiscally and they did. That's where I believe that decision really should be made, back at the local level when they feel that they can do and they have the resources to do that. I'd be voting to support the Minority Report. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, the reason I'm going to vote against the pending motion is that there have been a lot of pieces of legislation that we all supported regardless of the financial impact to the budget. To me, this is an issue of where we put our money and our priorities. I think that investing in education is really critical. I doubt that this will make it out off the Appropriations Committee, as will so many other bills that have good intentions will probably not make it through the Appropriations Committee process and be funded given the budget situation. From a position of what we ought to be investing in, I think this is really an important place to be putting funds and I commend the communities who are already doing this on their own. I believe that they should not have to do that, financially, on their own and that we should be helping out in that process. That's why I'm going to vote against the pending motion because I really believe that education is the key to our future prosperity and it's a wise investment for us. I hope that you will support my vote against the pending motion. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will be voting in opposition to this and my opposition may be a little bit different. I have stood up here on numerous occasions and complained that, over the years, at least since 1999, we've probably given tax exemptions at least 50 times to things that probably are worthwhile. What a tax exemption does is robs income for the things that are needed that we prioritize. I, like the Senator from Penobscot, think education is a priority. We cut this and we cut that. We give a tax exemption for this and for that. I guess there comes a time when it does come back to haunt us. We have a graduating class in Maine just waiting for jobs. When are the jobs going to come? We have high school kids that actually need a better education, although I stand corrected because the good Senator from Cumberland, Senator Alfond, did correct me. I'm grateful that Maine's graduation rate is a lot higher than I thought it was. Does that mean we've hit 100% yet? No, we haven't. I guess we're 85% or 86%, if my memory serves me right. We will be voting on more tax exemptions, probably today and if not today over the course of the next week or two. I just want to remind you that if the priorities that we have are important to us we're going to have to have income in order to have these priorities. I would ask you to be extremely careful. I do believe that the priorities are there. If anything, the Chief Executive is a strong willed person, to put it lightly, and if he wants this and this is a priority to the Chief Executive I know we can probably come up with the funds no

matter how he gets them because it seems like he can get them if he wants to. With that, I thank you.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today in opposition to this motion and I join with many of my colleagues on the Majority Report, as well as people in the Minority who have spoken today. That being said, I also state that we need to make progress in this area.

Incrementally is the best way to do this because there are many challenges in our economy to drastically overhaul the educational calendar. By phasing in adding additional days, fine, and if we continue to change how we educate our children we'll make progress for greater prosperity in this state. I would argue that now is the time to make the first step and to continue to make steps in how we overhaul our educational system in this state. I would ask you to oppose this motion.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I regrettably will support the Ought Not to Pass Report. As a teacher this does not affect me one way or another because at the end of June I will retire. I can now say that, I think, without losing composure because last Friday they finally had a little reception for me and it came to be a reality. It was true, after 28 years. I think I'm all recovered from that. We just voted \$1.7 million for salt sheds. I get the fiscal note for this, it is \$10 million and then \$12 million and \$26 million. We have people that are in nursing homes. We have the mentally ill. As the Senator from Hancock said, his community has already arranged it. So has mine. We do go a couple of extra days longer than the 180. I also would let you know that every single collective bargaining contract you have would be null and void. It's not paying the whole thing. Remember what your constituents said, those of you who were here when we did \$30,000 minimum pay. The tale on that was horrendous. It was supposed to pay for everything but each year it didn't keep paying for it and it really cost our local communities. I certainly believe in education. I believe in it very strongly. The difference is that it used to be land to show your power and now the difference between the haves and the have-nots is that the haves have a further education. However, I cannot in good faith pass this when we are not doing what we need to for the poor, the elderly, the mentally ill, and all of the others. I will vote against and take the step here rather than sending it down to the killing fields in Appropriations.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, two quick points. One, every day in the Education Committee, and for those of you who aren't there come and join us any day, we talk about equity in education. We've heard about some districts who have gone beyond the 180 school days. That's terrific and I am very proud of those districts. I'm also in a district that just did that too in the great city of Portland. However, that doesn't create equity in education. We are now becoming a state that, every single year, becomes more

inequitable, not only because of some districts going more days than others but by some districts taking on educational reform stronger than the other. We, today, have an opportunity to end that inequity and make sure that this is a statewide priority. The other piece is that we've already passed millions and millions of dollars down to the Appropriations Committee. We have sent it to them. Whether it's the killing field or the hope field, I'm not the one to suggest what it is going to become because I don't sit there. What I do know is that we've made some of those a priority. Why we wouldn't make this a priority just boggles me. Thank you.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, first of all I'd like to comment that this is certainly not a partisan issue. If you look back in the early 1990's Governor McKernan actually wanted to do this and it was defeated because of the fiscal cost. I guess my biggest concern with this, which would be a mandate, is that, we've talked about the expense to the State, it also is an expense to the local property tax payer. It's a property tax increase of \$5.1 million the first year, \$10.3 million the second year, and \$13.2 million the third year. I guess I'm not comfortable passing along that property tax increase but I am certainly committed to working together with both sides of the aisle to try to find ways that we can better fund our educational system.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Hancock, Senator Langley 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 (#71)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, PATRICK, SCHNEIDER

EXCUSED: Senator: JACKSON

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

Sent down for concurrence.

#### Divided Report

Ten members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Promote the Financial Literacy of High School Students"

H.P. 161 L.D. 184

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (H-206)**.

Signed:

Senators:

LANGLEY of Hancock  
ALFOND of Cumberland  
MASON of Androscoggin

Representatives:

JOHNSON of Greenville  
MAKER of Calais  
McCLELLAN of Raymond  
McFADDEN of Dennysville  
NELSON of Falmouth  
RANKIN of Hiram  
WAGNER of Lewiston

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

Signed:

Representatives:

RICHARDSON of Carmel  
EDGECOMB of Caribou

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (H-207)**.

Signed:

Representative:

LOVEJOY of Portland

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports Report "A", **Ought To Pass as Amended by Committee Amendment "A" (H-206)**.)

Comes from the House with Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-206)** READ and ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-206)**.

Reports **READ**.

On motion by Senator **LANGLEY** of Hancock, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-206)** ACCEPTED, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-206) **READ** and **ADOPTED**, in concurrence.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senate

**Ought to Pass As Amended**

Senator SNOWE-MELLO for the Committee on **MARINE RESOURCES** on Bill "An Act To Amend the Depuration Laws" S.P. 312 L.D. 992

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-105)**.

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

**READ ONCE.**

Committee Amendment "A" (S-105) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Senator TRAHAN for the Committee on **TAXATION** on Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory S.P. 151 L.D. 518

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-108)**.

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

**READ ONCE.**

Committee Amendment "A" (S-108) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Waive Penalties on School Administrative District No. 32 and School Administrative District No. 33 under the School Administrative Unit Consolidation Laws" S.P. 399 L.D. 1289

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

Signed:

Senators:

ANGLEY of Hancock  
ALFOND of Cumberland  
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel  
JOHNSON of Greenville  
LOVEJOY of Portland  
MAKER of Calais  
McCLELLAN of Raymond  
NELSON of Falmouth  
RANKIN of Hiram  
WAGNER of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-107)**.

Signed:

Representatives:

EDGECOMB of Caribou  
McFADDEN of Dennysville

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Minority **Ought To Pass as Amended Report**.)

Reports **READ**.

Senator **ANGLEY** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit Mandatory Immunizations" S.P. 287 L.D. 941

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

Signed:

Senators:

McCORMICK of Kennebec  
CRAVEN of Androscoggin  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
FOSSEL of Alna  
MALABY of Hancock  
PETERSON of Rumford  
SANBORN of Gorham  
STUCKEY of Portland

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Concerning Independent Contractors in the Trucking and Messenger Courier Industries"

S.P. 332 L.D. 1099

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-102)**.

Signed:

Senators:

RECTOR of Knox  
JACKSON of Aroostook  
MARTIN of Kennebec

Representatives:

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

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

Signed:

Representative:

DRISCOLL of Westbrook

Reports **READ**.

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

**READ ONCE.**

Committee Amendment "A" (S-102) **READ** and **ADOPTED**.

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Create a Scholarship Granting Organization Tax Credit"

S.P. 401 L.D. 1287

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

Signed:

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**Divided Report**

Senators:

TRAHAN of Lincoln  
HASTINGS of Oxford  
WOODBURY of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-109)**.

Signed:

Representatives:

HARMON of Palermo  
WATERHOUSE of Bridgton

Reports **READ**.

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

Sent down for concurrence.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Resolve, Directing the Department of Transportation To Reopen the Pittsfield Rest Areas and To Plow a Scenic Overlook  
S.P. 20 L.D. 5

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

Signed:

Senators:

COLLINS of York  
DIAMOND of Cumberland

Representatives:

CEBRA of Naples  
GILLWAY of Searsport  
HOGAN of Old Orchard Beach  
MAZUREK of Rockland  
PARRY of Arundel  
PEOPLES of Westbrook  
RIOUX of Winterport  
ROSEN of Bucksport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-103)**.

Signed:

Senator:  
THOMAS of Somerset

Representatives:

THERIAULT of Madawaska  
WILLETTE of Mapleton

Reports **READ**.

Senator **COLLINS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Amend the Laws Governing the TransCap Trust Fund" S.P. 130 L.D. 426

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

Signed:

Senators:  
COLLINS of York  
DIAMOND of Cumberland

Representatives:

CEBRA of Naples  
GILLWAY of Searsport  
HOGAN of Old Orchard Beach  
MAZUREK of Rockland  
PARRY of Arundel  
PEOPLES of Westbrook  
RIOUX of Winterport  
ROSEN of Bucksport  
THERIAULT of Madawaska  
WILLETTE of Mapleton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-104)**.

Signed:

Senator:  
THOMAS of Somerset

Reports **READ**.

Senator **COLLINS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

### ROLL CALL (#72)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBINS, KATZ, Langley, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: None

EXCUSED: Senator: JACKSON

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being excused, the motion by Senator **COLLINS** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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

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### SECOND READERS

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

#### Senate

Bill "An Act To Authorize the Public Utilities Commission To Exercise Jurisdiction over Private Natural Gas Pipelines To Ensure Safe Operation" (EMERGENCY)

S.P. 492 L.D. 1545

### READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

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#### Senate As Amended

Bill "An Act To Provide a Sales Tax Exemption to Incorporated Nonprofit Performing Arts Organizations"  
S.P. 55 L.D. 205  
(C "A" S-90)

Resolve, To Create an Evidence-based Study and Comprehensive Plan for HIV and AIDS Services in Maine  
S.P. 213 L.D. 724  
(C "A" S-98)

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

Sent down for concurrence.

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

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### ENACTORS

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

#### Act

An Act To Modify Rating Practices for Individual and Small Group Health Plans and To Encourage Value-based Purchasing of Health Care Services

H.P. 979 L.D. 1333  
(S "H" S-96; S "I" S-99 to C "A" H-186)

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 Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I have to say I am very disappointed this morning. My understanding is that we are about to pass this massive change in the delivery of our health insurance and, unfortunately, our health care. I believe from start to finish this has been a bad process. It certainly was in our committee on that fateful Friday, even though some would say it wasn't run through but it was. Our committee was stymied. It is true that we did go to defeat it because it looked like a bad change in our ways of doing things and we were unsuccessful. I hope you are all right, you are all correct I should say. I hope you are right that people's costs will go down and that things will get better. I certainly hope so. Certainly some things have been done that make it better but I believe it is dangerous to disrupt the system, especially where we have another system coming in the next two or three years. Also I don't know exactly why we and the State workers got written, as I understand it, out of the tax, or whatever you want to call it, the \$4 per person per month. How did we get exempt? I thought maybe it was because all self-insured are exempt, but I

am now assured that is not the case. Certainly people wonder how that ever happened. Why us? Why would we even say it? Some of my e-mails ask. There are certainly problems here and I thought I'd like to read a couple of things. One of the groups I feel very close to, or feel very glad we have, is the primary care people, the people in the federally qualified health centers. The health centers are so important to our rural areas and our cities. I just wanted to read a little bit of what they say. "We simply cannot afford an about face reversal on policies that have been in place for decades to provide protection to the more vulnerable. Such a move will drive rates up in the very communities that so desperately need more economic vitality and investment. Moreover abandoning the Rule 850 changes the geographic standard and will drain rural Maine of necessary health care resources while making primary and preventive care inaccessible to the hardworking people of our state." I hope that this will not be harming these centers. They are so important to our whole state, especially for those who don't have insurance or who are seeking help with very little finances. We came here hoping to do a job in preparing us for the federal program. We believe the federal program has many good things about it and we should be working and preparing for it and not going in a direction that will be disruptive, some of us believe. We came here to lower the cost of health care and that is more important than anything else, not the cost of health insurance but the cost of health care. Here, Canada, and in England the cost of health care is going to bankrupt all of us if we don't do something about it. We've been distracted, I think, from that by the cost of health insurance and the changes in health insurance. We came believing the proposed focus on bringing a state based insurance exchange was the best way for us to work on the future. We had hoped for transparency in pricing and quality measurements to increase competition. We hoped to establish fair prices for prescription drugs through effective negotiation and price disclosure. We came to make federal changes work for us. We really hope, and still do, that we can dovetail with what the large national changes will be. We hoped there would be no giveaways to insurance companies and the pharmaceutical industries. I believe some of these hopes have been dashed. As I said, I hope you are right because for the people it is so important. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first I just want to take a few minutes to clarify and explain what happened last week when we were here very late into the night. I had grave concerns about passing this legislation in the wee hours of the morning last week. All too often that kind of action, taking action in the middle of the night, is misinterpreted or misunderstood by people that somehow we are doing something shady. I wanted to make sure that we voted for this out in the daylight. I thought it was that important. Of course I was tired but so was everybody. That is not the real reason I went home last week. I went home because I thought it was in the best interest of not only my constituents but everybody's constituents, the people of Maine, to take this vote in the light of day and that is why I thought it was so important. I wanted to express my gratitude to the other side of the aisle, in particular the leadership, for waiting until today to take this vote. I also want to say something else about whether or not my vote for this is

somehow interpreted as a party vote. It is not. I recognize that there were many issues with regard to this piece of legislation. There are many, many concerns. I still have grave concerns over this legislation. It is my style to try to work with the cards I am dealt. I reached across the aisle to try to improve, or make changes to, this legislation that would make it a better bill. It's just the way I am. I believe it's in the best interest of those people that I serve to do that, to behave in that manner. I did. The votes were there. The bill was going to pass, as the amendment came from the committee, with or without me but I would rather be known as somebody who is willing to work collaboratively and to try to address the concerns of many people who were in opposition to this bill to try to make it a better bill, to make it improved for my constituents and the people of Maine. Three amendments came forward, two of which were accepted; one by the Senator from Cumberland, Senator Diamond, and one from myself. The third amendment, that was another amendment that I had, was not accepted. It was rejected by the majority and I understand that because they said it was redundant and was not necessary. I am bringing this up again because I think it's important to talk about the reasonable access issue and to be very thankful that into the record we have stated over and again that it is not the intention of this legislation to require people to travel additional distance but to incent them, if the insurance company so chooses, to travel further for primary and specialty care. Nobody will be required and that additional costs will not be seen by those who are insured if they are utilize their primary care provider or specialty care that is closest to them. That is the intent. I appreciate those who have been on record saying that this is the intent. I am very grateful for that. Even though that amendment was not accepted I appreciate the statements from everybody about what the intent is of reasonable access. I've been told on numerous occasions by those passionate about supporting this legislation that insurance costs will go down for all citizens, not at the expense of some that will pay additional costs. That will not happen. All citizens' insurance costs will be reduced. I truly hope that this goal is reached because that is a great goal. If the goal is not reached and some pay additional costs at the expense of others, if the elderly see very high costs and others do not, or rural areas see very high costs and urban areas do not, we will have failed. We will have missed the mark. I am hopeful, by what was stated last week, that both sides of the aisle will come together and fix it so nobody ends up paying additional costs at the expense of a reduction for others. I am assured that this is going to work for everybody by some who support the legislation but I am not convinced completely because I keep hearing things from people, for example from the Chamber of Commerce and others, that they are not sure. It's true that often legislation gets passed and we're not sure what the impact will be. I understand that. This is an awfully bold piece of legislation with massive changes that, frankly, I don't have the expertise to understand how that is going to impact our citizens. I am taking a risk in supporting the bill because of the amendments that were allowed to be put on but I am also hopeful that if we don't achieve our goal and lower all insurance costs for all people in Maine then we will be back here to fix it. Once again I want to thank the leadership for holding the vote until today. It's of great importance to all of us under the dome. I think that we waited and that showed true courage to wait until today to do that. Thank you, Mr. President, I appreciate you time.

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

**Senator DILL:** Thank you Mr. President. Men and women of the Senate, it's a pleasure to be here. I, in the deliberation of this bill, note that there is a provision that strikes me as blatantly unfair. That is that the legislators are not included in that group of people who would be taxed to fund this new insurance program. In addition to my concerns about Part B of the bill, which expands the bureaucracy, I also have concerns that the assessment on insurers passed through to consumers that exempts legislators is patently unfair and I have an amendment that would rectify that situation. Unfortunately, unless this is it, the amendment hasn't been finalized by the revisors office and so I am hoping, as perhaps just this once, that the Body would indulge me and table this matter briefly. I am looking for the assistance of one of my colleagues in this maiden vote of Senate procedure. Thank you.

**THE PRESIDENT:** Does the Chair understand that the Senator from Cumberland, Senator Dill, has offered a motion to table this item until later in today's session?

**Senator DILL:** Thank you Mr. President. I understand that tabling motions are not debatable and so I believe that one of my colleagues will be moving that.

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

**Senator TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think I might be able to address the Senator's concerns. When this issue was brought to the attention of the Maine Senate, in the initial debate, I already had introduced an amendment to resolve this issue and to take out the exemption, not for legislators because that is really not quite accurate as to what the exemption does. The exemption is created for all State workers. Legislators are included in the dome or the structure of State workers. There is no exemption for legislators or for State workers. What I had done was submit an amendment to pull the legislative piece out, as the good Senator had suggested. That amendment is still in. What I think is a better option is one that has been agreed upon which we will be addressing in a separate vehicle. I had the same concerns you did. The agreement that I have had from leadership is to allow the introduction of another bill to address this very issue. It will be coming very quickly. That was the agreement that I had initiated. I do want you to know, Senator, that it was never the intention, I believe, of people to exempt legislators. It was because of the very controversial issues that are related to the budget and State workers and people that put this exemption in felt that to pile this on top of the possible changes to the pension system would just be too much to do to State workers. It was never intentional or devious. I believed people when they told me that. I believe your concerns, Senator, will be addressed in a separate vehicle.

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

**Senator CRAVEN:** Thank you Mr. President. Men and women of the Senate, I also want to offer my gratitude for extending our time to vote on this bill today. I agree that the system is broken and that we need to do something. I thank all of the people that

worked so very hard on this bill. I still stand in opposition to the bill because, in preparation on Friday, we did call the Associate State Director of AARP in Idaho. When I told him why we were calling this is what he said verbatim. "I can't understand why anyone would up Idaho's health care as a model for how things should run." They've been practicing a similar bill since 2001. He replied, and I'm still quoting him, "As we already discussed, there certainly are some similarities between Idaho and Maine. Both have a sprawling geography and are rural in population. Our population base is similar." We here in Maine have 1.3 million people and Idaho has 1.5 million people. Obviously, the demographics are different in that we are a much, much older state. Here in Maine there are 133,000 people who are uninsured. In Idaho there are 234,000 people. They've had this bill since 2001. Of those 234,000 people he said 189 of them are between the ages of 19 and 65. Those are the populations, I think, that this bill is hoping to cover with insurance and that young people will buy. I would say that young people will buy insurance when they have to or when they have children or when they are worried that they might get sick. When asked by the AARP in January 2011, we also got two different polls that were taken in Idaho. 90% of Idaho's population said, who were over 50, that they were very concerned about having adequate health care coverage. When asked about the quality of their health care today compared to five years ago 48% said that it stayed the same, 26% said that it was worse than before, and 15% said it was better than before, 11% weren't sure. Only 1% said that their health care costs, including prescription drugs and co-pays for their insurance, went down. That is 1% of all of the people that were covered by the bill. 1% said that their health care costs, including prescription drugs and co-pays, went down somewhat. 33% said that it stayed the same. 22% said that it increased a bit. 22% said it increased significantly. 9% didn't know. I think that we need to look at outcomes as well as models, even though models may look like they would work very, very well. I think that insurance coverage is so complex that we really need to see the outcomes of insurers elsewhere. Thank you, Mr. President.

Senator **BARTLETT** of Cumberland moved the Bill and accompanying papers be **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

On motion by Senator **COURTNEY** of York, 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 (#73)**

**YEAS:** Senators: **BARTLETT, BRANNIGAN, DILL, GERZOFSKY, GOODALL, HILL, PATRICK**

NAYS: Senators: ALFOND, COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, HASTINGS, HOBBINS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWEMELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: JACKSON

7 Senators having voted in the affirmative and 27 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **BARTLETT** of Cumberland to **TABLE** until Later in Today's Session, pending **ENACTMENT**, in concurrence, **FAILED**.

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

Senator **SULLIVAN**: Thank you Mr. President. Men and women of the Senate, I'm not sure where to begin. It sort of reminds me of the Declaration of Independence, when Ben Franklin, after having been in a closed room all night, went to the window and said, "I'm not sure if this is a rising sun or a setting sun." I'm not sure if this is the right bill or not, but I think after 15 years of working on something many of the ideas in this bill are ideas that were put forth 8 years ago, at least. Reinsurance is a good thing. It takes away the stigma of a high risk pool. It something we worked on. The funding is different. We were going to have the insurance companies pay for it back several years ago. They were making the money. Now it is going to go to the policy holder. I wish it had stayed the way we were going to fund it, but it didn't. I'm very concerned about rural people and the hospitals, but there is an amendment in here that makes it better.

One of the things Senators should be able to do is count to 18. I can count to 20. I had a choice to make. I believe in the saying that if you are not part of the solution then you are part of the problem. There are amendments on this that make the bill better. I won't stand here and guarantee anyone that this is the right bill. I cannot and I defy anybody sitting here to say it is a guarantee that it is right. Quite frankly, it is ironic to me that about 60% of this bill, that's my percentage, is probably off because I've never been great with numbers, is dependent upon the federal Affordable Health Care Bill. If that is not allowed to happen this bill is going to crumble. I know that, as I get ready to retire this June and my husband does not have health insurance right now because I've always carried him on my teacher one, it will cost me almost \$1,000 even with my discount for insurance. I want to know how somebody who is single, by themselves, and I want to know how elderly people who retired 10 years ago can continue to afford that type of insurance. We must do something. There are two options in front of us. Pass this or fail to pass it. We have done nothing. We haven't even tried to do something if we fail to pass this. I sort of feel like the skunk at the family picnic, but I am comfortable with my decision. I'm very comfortable. I've gotten used to the dirty looks, being a teacher you get dirty looks all the time so I was well prepared for that. I just hope and I think, quite frankly, I don't want to make this partisan but I will by this statement, the burden of this bill being successful is really on the other side of the aisle. If you fail it's your party in power. I know that feeling. I've been there.

Last Thursday night was a humbling and yet hopeful situation. Mr. President directly to you and I'm not sure if the rules even allow me to do this, I thank you for taking the time to talk to me, to work with me and fellow colleagues. I thank the caucus for allowing me to speak and be respected as I spoke. I will vote for this. Is it a rising sun or a setting sun? I do not know, but we must move ahead. We have bigger fish to fry, so to speak. We have a budget that is going to need cooperation from both sides and this has derailed us entirely. I believe there are things that my side of the aisle will need in that budget and there are things we are going to have to let go for you. I am well aware of being not a man without a country but a woman without a party. Right now I feel left by both. Not anything through the Republicans, I'm just not a registered Republican. I'm okay with that. We need to move ahead. We need to do it. We need to get this over with. We need to do the peoples business and we need to do it right. Thank you for allowing us to do it, I was going to say the sunlight of the day but I guess not sunlight, at least in the brightness of day. Thank you, Mr. President. Thank you, men and women of the Senate.

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

Senator **DILL**: Thank you Mr. President. Men and women of the Senate, I just wanted to note, just getting back briefly to an earlier discussion regarding Part B of this bill, in particular page 13, section 3957 that talks about the assessment against insurers. In line 16 through 19 it talks about the maximum assessment that can be charged for purposes of funding this new program and, as was discussed earlier, the bill exempts State employees, including legislators. Part B, it's undisputed, taxes school employees and ordinary people who work at Wal-Mart to pay for this new program. Part B exempts State employees, including us legislators, and I believe the reason for that exemption is because the fiscal note that would necessarily go along with charging State employees or charging insurers who insure State employees would be too high and the bill would, therefore, fail. To just include legislators, to just have ourselves pay for this new program that we are about to pass would cost \$7,000. I would just say to you that if we can't afford \$7,000 why do we think people who work at Wal-Mart can afford the \$7,000? Why do our citizens who work in schools and in our small Mom and Pop stores, why can they afford this amount but we can't? There was mention of perhaps a future bill that will remedy this problem and I would say to the Senator from York, Senator Courtney, carpe diem. We have a problem. We have the ability right now to fix it. Senator Trahan, there may be a bill but the bill will have a fiscal note.

**THE PRESIDENT:** The Chair would advise the Senator to direct her comments to the presiding officer.

Senator **DILL**: Thank you Mr. President. I will do that. If we can't afford \$7,000 to pay for this new program we certainly can't expect people who work at Wal-Mart to pay for it, or our school employees. To the extent that we are hoping that a future bill, that will most likely not be exempt from the Appropriations Table like this one, will solve our problems, I think that is a bad idea. I suggest we have the opportunity to fix this bill, to make it more fair, to include ourselves, and I therefore would urge you to

consider amending the bill. The amendment I drafted will be circulated shortly. Thank you.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I think, as the good Senator from Lincoln said a few minutes ago, there are ongoing discussions to look at another vehicle for this, where this would be a budgeted item. I think it would be appropriate to have that discussion perhaps in the budget with regards to whether it's going to be funded, if it's going to open up a state contract, per say. What I would also like to add is that there is a significant difference between this and the previous attempt at bringing health care changes to Maine. The health care assessment, with regards to the Dirigo Assessment, the total of this, for all the people working at Wal-Mart or any other place in the state that would have to pay part of that assessment on the claim, is significantly less. It's likely that half of the \$4 assessment would be needed. That is about \$17 million. The Dirigo assessment is about \$40 million on top of the hundreds of millions of dollars that have already gone through to try to make that program survive.

I would also like to add this, even though we have examples of successes and we have examples just across our border in New Hampshire of why they have lower health insurance rates for the same people, if for some reason it doesn't succeed, I can assure you that the members of this side of the aisle, and a couple of seats over there, are committed to making it work and not making it bleed the tax payers and bleed our constituents. This is about lowering the cost of health insurance. This is about creating an environment and sending a strong message to the people of Maine that if we have the opportunity to lower health insurance from \$500, \$600, or \$700 a month down to a couple hundred dollars a month for an entry level, someone starting out in their career, that's what it's about. It's about changing the environment for job creation. That's why we're here.

Last Fall I had a lady in Sanford come up to me and I'm going to use her name, Linda Dionne. Her husband had passed away. She's in her late 50's. She came up to me and said, "I can't afford this health insurance premium." It was \$450 a month with a \$5,000 deductible. I went home the other day and she said, "You know, I just got my increase from Anthem. What are you guys doing up there?" She said, "Anthem's going to increase my rates from \$450 to \$660 for that same \$5,000 deductible." Is that what we've done up here? Have we totally priced everybody out of the market? We can do better. I made a promise to Linda Dionne from Sanford. I told her that help is on the way. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I just wanted to stand very briefly and say I share the concerns stated by the Senator from Cumberland, Senator Dill, regarding the exemption for State legislators. I have been assured that this would be addressed later on and so I also gave a commitment that I would not make any votes that would delay once again this vote. I wanted to just be clear because I'm voting against some procedural matter which normally I would vote in favor of, but I'm not doing that today because I gave a firm

commitment that I would not do that today to the leadership who gave the courtesy of allowing additional time and us to vote on this during the daylight hours. I just wanted to explain that so everybody would be very clear about why I'm not taking certain procedural votes that I'm voting red on instead of green. Thank you very much, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. While I appreciate having the opportunity to have this debate in the morning as opposed to in the middle of the night, nothing really has changed in terms of the posture of this bill from exactly where we were Thursday night, to me that is frustrating. On Thursday night we got into a dilemma because this bill should be headed to the Appropriations Table. That's what we do when we pass legislation that has a fiscal impact. Our Joint Rules provide for it and they do that because it's important to make sure that you have the committee with expertise on fiscal policy and understands the full implications of the budget looking at pieces of legislation that have a cost, making sure they are prioritizing things properly, and make sure that the estimates of cost are accurate. It is not uncommon that the Appropriations Committee runs the table and finds out the original projections were off or that by making some small changes you can have a dramatic impact in the cost of a piece of legislation. We have a committee that is set up specifically to address the complications raised by this bill. We still don't know how much this assessment is going to be. It could be \$2, it could be \$4, or it could be up to the maximum of \$6. If it is at \$6 it looks very competitive with Dirigo at about \$36 million. A \$6 assessment will produce \$36 million in cost for Maine insurance holders.

We also had the debate last week about the funding mechanism and the concern by having a board, 5 of the 11 members appointed by insurers, determining what the assessment should be and whether the rates should go up. This is potentially a constitutional problem as well as a fiscal one. It seems to me that by putting this on the Appropriations Table we could explore that issue and resolve it. No one has gotten the AG's opinion to figure out whether it is unconstitutional delegation of power. It's unprecedented.

Last week I supported an amendment to this bill, as did most of us in this Chamber, because we thought it was going to make things better in terms of the geographical disparities that we encompassed in the bill. Well, things have changed over the weekend. I have gotten a little more information on that amendment and I now regret supporting it. It turns out that by allowing the geographic rating of 1.5 - 1 to be stacked on top of the age rating and also allowing the individual insurer to close his book of business to add family status, which is again an unlimited amount, an insurer can now raise rates higher than they could under the original bill prior to the amendment. It is true for the small group market as well, where you can include both family membership and industry and occupation with unlimited bands. This is the problem with making legislation on the fly. We are rushing this through here so fast that we don't have time to check our numbers and check the implications. This should go to Appropriations to figure out what is going on. Are we really going to be raising rates for rural Maine? Similarly, with respect to the 850 issue, although I do think the amendment makes it somewhat better here, it doesn't solve the problem. We debated a lot last

week about how the State health plan also offers an incentive program. It turns out, as you look a little deeper though, that it is quite a bit different. There is a significant difference in the tiering in the State health plan and the proposal in L.D. 1333.

Participants in the State health plan benefit both financially and in terms of the quality of care they receive. Under this proposal insurers can offer incentives based purely on cost, not on quality. That is a significant issue if insurers are simply going to drive people to the lowest cost instead of also incorporating the quality measures.

In response to the concerns of the Senator from York with respect to his constituent over the weekend, I, too, run into constituents frequently who are upset at Anthem. They are angry every time they see their rates increase. I know one thing, those people who are upset with the policy increases don't want me to come up here and pass a bill that is supported by the insurance industry alone. Anthem was pushing this bill. They are the ones who are dramatically increasing their rates. Who do you think is going to benefit from this? Do you think they were doing it because they thought they were making too much money? No. This bill will help them make more money. What's it going to do for your constituents and mine? We don't know because we haven't had an opportunity to fully explore it. I do know that one projection I've seen; if your constituent happened to be over 55 down in York County under this proposal their base rate would climb from \$482 to \$512. I don't think a \$30 increase in their premium is the gift they were looking for when they complained to us about their rates. The bottom line is that this bill is not ready for enactment. We've already heard that there is going to be one subsequent bill coming up. My guess is that if we stay here long enough there will be two or three or four more corrective fixes trying to get at some of these issues because the reality is that we've rushed this thing through so fast that we haven't had a chance to double check, to count our numbers, and make sure that we are protecting people. This bill is not ready for enactment and we should not be sending it today. We should be putting this on the Appropriations Table and making sure that the people of Maine will benefit because if we rush this out one guarantee is that there will be unintended consequences and we will be back here trying to fix it. That's not what the Maine people want or what they deserve. They want us to get it right the first time. Thank you, Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Mr. President. Members of the Senate, I know that I have spoken extensively on this bill but I can't let this momentous occasion pass without noting just how very important L.D. 1333 is for Maine and for all of us. This truly is another day we can all look back on with pride and a sense of accomplishment. It is the day when we move further down the road to prosperity by making health insurance more affordable and available for everybody; a day when we did something for the 133,000 Mainers who did not have coverage but do now; a day we did something to lower costs for those over 48, that includes me; and a day when we did something to help businesses compete and create jobs.

I also wish to speak directly to those who have been frightened by the uncertainty that walks hand in hand with meaningful change. I will briefly address three myths that were perpetrated by those who fear change and who harbor mistrust.

One, you will not lose your ability to choose where to receive care. Two, you will be stigmatized because you have a chronic illness. Three, you will not lose your coverage or be denied insurance if you have serious medical issues. It has been stated several times previously that no matter where you live you can choose to receive care wherever you want. In fact, reforms in this bill will provide you with far greater choice, choice that can save you and your family money, money that can be used for basic necessities or to enhance your quality of life.

I want to thank our friends across the aisle for their input, questions, and suggestions regarding access to health care in rural areas. Their actions allowed us to assure those in rural areas who have questions, concerns, and have been misinformed. Secondly, you will not be stigmatized if you have a chronic illness. That point was wonderfully explained by my good friend and colleague, the Senator from York, Senator Sullivan. On a personal note, I am so pleased to stand with her today. Bipartisanship and true leadership requires people willing to make the difficult decisions and move others to join them. Finally, you will not lose your coverage or be denied insurance if you have a serious medical issue. I have a chronic illness and I will share that with you. It requires frequent medical care and access to my family doctor and my internist and my dentist as needed. Crohn's disease, for me, means weekly shots, shots that cost \$1,000 a piece. I have complications with my eyes, my insides, and other parts of my body. I have had five reconstructive surgeries. My treatment includes daily prednisone tablets, which have extremely serious side effects and I know many of you understand that. Another one is osteoporosis and, the reason why I'm very skinny, weight loss. Enough about me. My point is that without access to health insurance my husband and I would lose everything. I want others to have access to health insurance and the peace of mind that comes with it. This, I truly believe within my heart, will do it.

When I first ran for the House my slogan was listen, heed, help, and lead. In the 125<sup>th</sup> Legislature we listened to those who cried out for relief. We heeded their calls for change. We helped by crafting commonsense solutions. We lead Maine in a new direction. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, numerous times over the last few days I've heard the phrase "the intent" or "the intensions." One thing I can say is that the road to hell is paved with good intentions. I'm tired of people hanging their hats on intents or intentions. Going home this weekend I felt a little bit better saying, "Well, maybe we tweaked this, maybe it's a little bit better." On the way home I happened to bump into a businessman from Kennebec. I think one of the Senator from Kennebec, Senator Katz's constituents. I told the story of the Democrat who had been a Democrat for 40 years and turns Republican in my district because he thought we had failed. It's unbelievable because this business owner stopped and talked to me. I was actually kind of late getting home. He talked with me for 45 minutes about what the "blank" is going on in Augusta. I've got to be careful because I don't exactly say what he told me because he was extremely angry and irate and I do tend to go a little bit further than I should. I will try to do the best I can. He brought up everything under the sun about what is going on here and he found out about the aspect of Anthem championing this

issue. He said, "Oh my God, here we go again. Not just the bank, not just Wall Street, not just everything, now the insurance companies are going to get their payback." He said, "I cannot, for the life of me, believe you guys are willing to go from A back over to Z." He said he had hoped I wouldn't support this.

I, like my colleague from Aroostook, Senator Jackson, who is not here today, had some problems with 850. We had wondered why we couldn't get the tightened language of 850 in. I do understand because it was elaborated on, although I'm really not 100% sure stating the intent is the right way. I had a called a lady from Lovell this weekend. She had couple of issues that she wanted to talk to me on. She said, "John, you seem to be a little more conservative than your predecessor." I said, "I think I am in a lot of respects." She asked me where I stood on the two issues that she had and then she spoke to me and said, "I noticed that you voted against Mr. Brown for Commissioner and you voted against Mr. Condon and both of them basically resigned with less than honor," as I would say. She said, "How did you derive at the reasoning?"

**THE PRESIDENT:** The Senator will suspend. The Chair recognizes the Senator from Penobscot, Senator Plowman, and asks for what purpose the Senator rises?

**Senator PLOWMAN:** Thank you Mr. President. First of all, would you please direct the Senator to stay on debate of the bill as well as ask him to refrain from making comments about the Commissioners who have just recently resigned. I don't believe that has anything to do with the bill before us. Thank you, Mr. President.

**THE PRESIDENT:** The Chair would ask the Senator to confine his comments to the contents of the bill before us. Thank you.

**Senator PATRICK:** Thank you Mr. President. If she would have given me a chance to talk I would have elaborated on that. This lady said to me, "I'm so proud of you for making the decisions you made because if you're not going to support that health care bill, Senator Patrick, I have full faith that you will make the right decision." Based on the knowledge that I have garnered here in listening to the Senator from Cumberland, I am 100% sure that not supporting this bill is the right thing for the citizens of the state of Maine and I have no qualms about it. There is a lot that has got to be done. No actuarial studies. It's got to go down to Appropriations. There's an awful lot that we want to try. I did tell the citizens of the state of Maine that I would support change if I really believed in it because this whole legislative session, the last election cycle, was about change and it was about jobs. Evidently we haven't got any jobs yet. The change that we are supposed to do is supposed to be beneficial to the people of the state of Maine and I hope it is. I really do. I hope it's going to be something good and I can say, "Folks, I made a mistake." At this state in my legislative career I've only made a couple that I can say that I wished I wouldn't have made. One was the expedited wind bill and I hope this is not going to be the second one. With that, Mr. President, I thank you very much and thank you for allowing me to expound upon where I was headed. Thank you.

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

**Senator DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think there is one thing that is probably clear about all of this, this bill has certainly left some unpleasant residual in its wake. Some people have been bruised. Some even bloodied. I think that's been brought on by the sincerest of concerns on both sides. People have stood, they have debated, they have talked, they have met, and I've yet to see anyone who didn't appear to be of the most sincere, genuine motivation. That's what happened with the amendment that I presented. It was the result of a lot of people working together, leadership on both sides and others. I think as a result of that we have a better bill. Now will this do as we hope? I don't know. I do know this, a lot of people were asking us to do something. People need and want a change from what we have today. I have over 400 small businesses in the town of Windham alone, all with employees, many without health insurance because of affordability. The current system is just not working. We do need to make some changes. I think we have to think back and look back to see where we're standing at the current moment. If this bill doesn't do what we all hope it will, and again there are no guarantees, then we have to follow through. I will certainly pledge to do all of that from my point. I think others will as well, even those who oppose this bill I believe want to do what's best for the people of Maine. We have to move forward and now is the time. Thank you, Mr. President.

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

**Senator GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today listening to many great comments on the floor, some I agree with and some I disagree with. I agree with the underlying intent of everyone in this Chamber, we must lower the cost of health insurance in this state. It is significantly impacting our economy and investment in job creation. With that being said, I, along with many in this Chamber, do not feel comfortable going forward on hope about what this bill will do. As I said a few nights ago, I, along with many of us, are very close to supporting this bill if we can change or amend a few components of this bill to make sure that we protect rural Maine, we make sure we protect those over 48 or 55, and, in addition to that, that we appropriately address the issue of taxation in this bill so that it is fair and equitable, that we do it today and not in the future, that we don't rely on hope that it will occur. In addition to that, why are we allowing this delegation of authority? That's an issue that should be changed. The notion that 133,000 people, and I've heard that number a lot, will receive health insurance, I hope that comes true. This is not a universal plan. People will still have to go out and purchase their health insurance. We've heard facts about how some will increase and some will decrease. We can each juggle those facts to say whether or not we believe it 100%, but we don't have a definite report in front of us from the Superintendent of Insurance, like we so often do when we move forward on these bills. Last week, as we were debating this issue in the beginning of a new cycle, we heard about how insurance companies are barreling towards a third year of record profits. That gives me pause. It should give all of us pause but we need to move forward. I feel we could almost probably move forward unanimously if we addressed some of the issues that I have talked about, as well as others. Then we truly could have bipartisan support. We truly could take a significant step forward.

As a result of those concerns, I will be voting in opposition to this bill. Thank you, Mr. President.

Senator **DILL** of Cumberland moved the Senate **SUSPEND THE RULES** for the purpose of **RECONSIDERING** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-186) AS AMENDED BY SENATE AMENDMENTS "H" (S-96) AND "I" (S-99)** thereto.

On motion by Senator **COURTNEY** of York, 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 (#74)

YEAS:      Senators: BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFSKY, GOODALL, HILL, PATRICK

NAYS:      Senators: ALFOND, COLLINS, COURTNEY, DIAMOND, FARNHAM, HASTINGS, HOBBINS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWEMELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: JACKSON

8 Senators having voted in the affirmative and 26 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DILL** of Cumberland to **SUSPEND THE RULES** and **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-186) AS AMENDED BY SENATE AMENDMENTS "H" (S-96) AND "I" (S-99)** thereto, **FAILED**.

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

Senator **COURTNEY**: Thank you Mr. President. Men and women of the Senate, thank you for the little break from the debate. I'd like to correct the record for a few things. A little earlier we heard from my good friend from Cumberland that the process of exempting a bill from the table in unprecedented. Well, this bill actually has a very small fiscal impact. It's not unprecedented. If you look back to the last session of the legislature, when my good friend sat in my chair, I think we exempted L.D. 1758, An Act to Implement the Recommendations of the Task Force on Sustainability of the Dairy Industry in Maine. We exempted, or they exempted, An Act to Implement Tax Relief and Tax Reform, L.D. 1495. We also exempted L.D. 1088, An Act to Modernize the Tax Laws to Provide Over \$75 Million in Tax Relief."

**THE PRESIDENT:** The Senator will defer. The Chair recognizes the Senator from Cumberland, Senator Alfond, and asks for what purpose the Senator rises.

Senator **ALFOND**: Thank you Mr. President. Point of order, the relevance of this in respect to the pending motion of L.D. 1333?

**THE PRESIDENT:** I believe that the Senator from Cumberland raised this as a debate point a few moments ago and I believe that the Senator from York is responding to it. I believe the Senator to be in order.

Senator **COURTNEY**: Thank you Mr. President. In addition, I would ask that you would ask that the staff not speak to the Senators during the debate.

**THE PRESIDENT:** Staff is reminded that if you wish to communicate with a Senator during session you must communicate by having a chamber staff person pass a note.

Senator **COURTNEY**: Thank you Mr. President. I would continue, additionally exempted was L.D. 118, An Act to Facilitate the Provision of Educational Loans for Maine Students and Families." I've got a few more here but I don't need to read them all. I just wanted to put that in on the record. Mr. President, we heard also that there is some anger at Anthem. For the record I'd like to just state that Anthem testified neither for nor against. Quite frankly, I think they are quite concerned about this. If you want to hurt Anthem, if you think that Anthem is the enemy here, this bill doesn't help Anthem. This bill injects competition that Anthem doesn't have. I would submit that the competition will drive rates down, thus it will help the consumers and not Anthem. We also just made contact with the Attorney General's Office and in his opinion this bill is constitutional and he would have absolutely no problem defending it. Mr. President, I appreciate the bi-partisan support that we've received on this. We want to continue to keep a very high level of debate. We know that this is one small step for the people of Maine to reduce their health insurance and there are good intentions on both sides. No one here is questioning that. Mr. President, the good intentions of the past have lead us to some of the highest health insurance rates in the country. Today it's time that we go down a slightly different path. Thank you, Mr. President.

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

Senator **BARTLETT**: Thank you Mr. President. The issue that I have is not that we exempted this from the table, it's that we are exempting it from the table and moving it so quickly when there are so many problems with the bill and we still don't have the fiscal analysis. This is a case where we don't even know the exact cost. We have projections of the cost based on very little information because we have not allowed the Superintendent of Insurance to provide it to us. I'm also concerned about the expectations that we have raised with this. Listening to this debate you would think that 133,000 people, who are uninsured, are going to get health insurance with this, that they are somehow going to be guaranteed coverage. There is nothing in this bill that assures they are going to be covered and if any of those 133,000 are over the age of 45 they are going to pay significantly more under this bill. This is not going to provide coverage. I think if the test, if the measure of success is the number of people who are still uninsured in 2012 and 2014, I think that is a tough gamble because I think, with this legislation and the increase in the rates,

you will see fewer people with insurance at the end of the day. That scares me. I also wanted to speak briefly to the amendment that we did not allow to be offered because we opposed the motion for reconsideration. Hopefully it is on your desk. It addresses the issue about the monthly assessment.

**THE PRESIDENT:** The Senator is cautioned to confine his remarks to the matter before us.

Senator **BARTLETT:** Thank you Mr. President. It addresses the assessment that is contained.

**THE PRESIDENT:** The Senator is cautioned to confine his remarks to the matter before us.

Senator **BARTLETT:** Thank you Mr. President. I understand that, Mr. President. I am simply referring to the provision of the bill that deals with the \$4 monthly assessment. The \$4 monthly assessment applies to every policy except that of State employees. We have repeatedly declined opportunities to rectify that situation. I, for one, am happy to cast my lot with the people of Maine and if I have to go home to my constituents and look them in the eye and say that they have to pay \$4 a month in assessment I should be paying \$4 a month in assessment as well. I can't imagine the outrage they are going to get when they get their bill and when they come to me and complain about it. They will say, "Don't you see that in your bill?" and I will say, "No, I don't. We have been exempted." It's a significant problem. For \$4 a month we ought to be in the game if we think this is important. If we think the reinsurance pool is going to help the people of Maine we should get in the game and support it. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. I want to be very careful how I propose this, but I will assure the Senator from Cumberland that there will be co-sponsor opportunities in his future. When you are taking your bill around this year to show people what you pay for health insurance please inform the people of your district that you pay nothing for your health insurance. Through their largess, we all, who take advantage of it, pay nothing except our share of taxes. When we remedy this situation we need to do it appropriately because we don't want to burden other State employees. The other exemption is the federal employees, where we have no place going. We will be assessed on any small insurance and large insurance as well. The idea is to build the fund in order to take care of the people who are hurt the most. We will not be participating in that fund either. We will not participate by paying in and we will not participate by drawing out. Should you want to pay there will be an opportunity going forward. There is no need to back up a major piece of legislation. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is Enactment. 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 (#75)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFSKY, GOODALL, HILL, HOBBINS, PATRICK

EXCUSED: Senator: JACKSON

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by the President.

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

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

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

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

## PAPERS FROM THE HOUSE

### House Paper

Bill "An Act To Allow Retired Dentists To Obtain a License To Practice in Nonprofit Clinics"

H.P. 1155 L.D. 1573

Presented by Representative CORNELL du HOUX of Brunswick. Cosponsored by Senator RECTOR of Knox and Senators: JACKSON of Aroostook, MARTIN of Kennebec, Representatives: GILBERT of Jay, HERBIG of Belfast, HUNT of Buxton, NEWENDYKE of Litchfield, PRESCOTT of Topsham, TUTTLE of Sanford.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Comes from the House, **REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed.

**REFERRED** to the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** and ordered printed, in concurrence.

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

#### PAPERS FROM THE HOUSE

##### Joint Order

The following Joint Order:

H.P. 1158

ORDERED, the Senate concurring, that Bill, "Resolve, To Streamline the Laws Governing Small Slaughterhouses," H.P. 682, L.D. 922, and all its accompanying papers, be recalled from the Governor's desk to the House.

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

**READ** and **PASSED**, in concurrence.

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#### Off Record Remarks

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

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**RECESSED** until 3:30 in the afternoon.

After Recess

Senate called to order by the President.

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The President requested the Sergeant-At-Arms escort the Senator from Penobscot, Senator **PLOWMAN** to the rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the floor.

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The Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

#### ORDERS OF THE DAY

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

**SENATE REPORTS** - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit Mandatory Immunizations"

S.P. 287 L.D. 941

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-106)** (3 members)

Tabled - May 16, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **McCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report (Roll Call Ordered)

(In Senate, May 16, 2011, Reports **READ**.)

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#76)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HILL, KATZ, LANGLEY, MARTIN, MCCORMICK, PATRICK, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SULLIVAN, THIBODEAU, TRAHAN, WOODBURY

NAYS: Senators: HASTINGS, MASON, RAYE, SHERMAN, SNOWE-MELLO, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

ABSENT: Senator: HOBBINS

EXCUSED: Senator: JACKSON

25 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **McCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

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#### Off Record Remarks

Senator **SNOWE-MELLO** of Androscoggin requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

(In House, May 10, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-155)**.)

(In Senate, May 12, 2011, **READ A SECOND TIME.**)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-155)**, in concurrence.

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Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

Senate at Ease.

Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

The Chair laid before the Senate the following Tabled and Later (5/12/11) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Eliminate the Sunset Date of the Maine Historic Preservation Tax Credit"

H.P. 235 L.D. 742

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-89)** (9 members)

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

Tabled - May 12, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **TRAHAN** of Lincoln to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

(In Senate, May 12, 2011, Reports **READ.**)

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

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The Chair laid before the Senate the following Tabled and Later (5/12/11) Assigned matter:

Bill "An Act To Allow Oak Grove Cemetery To Operate a Crematorium on a Parcel of Land Less than 20 Acres" (EMERGENCY)

H.P. 230 L.D. 286

Tabled - May 12, 2011, by Senator **COURTNEY** of York

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-142)**, in concurrence

(In House, May 10, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-142)**.)

(In Senate, May 11, 2011, Reports **READ.**)

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The Chair laid before the Senate the following Tabled and Later (5/12/11) Assigned matter:

Bill "An Act To Conform Business Expense Deductions to Federal Law"

H.P. 843 L.D. 1137  
(C "A" H-155)

Tabled - May 12, 2011, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-155)**, in concurrence

(In Senate, May 12, 2011, on motion by Senator **MCCORMICK** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. **READ ONCE**. Committee Amendment "A" (H-142) **READ** and **ADOPTED**. On motion by Senator **COURTNEY** of York, **RECONSIDERED ADOPTION** of Committee Amendment "A" (H-142).)

Committee Amendment "A" (H-142) **ADOPTED**, in concurrence.

**READ A SECOND TIME.**

On motion by Senator **COURTNEY** of York, under unanimous consent on behalf of President **RAYE** of Washington, Senate Amendment "A" (S-86) **READ** and **ADOPTED**.

**PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-142) AND SENATE AMENDMENT "A" (S-86), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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

**HOUSE REPORT** - from the Committee on **TAXATION** on Bill "An Act To Exempt from the Sales Tax Meals Provided at Retirement Facilities"

H.P. 13 L.D. 21

**Report - Ought to Pass as Amended by Committee Amendment "A" (H-166)**

Tabled - May 160, 2011, by Senator **COURTNEY** of York

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

(In House, May 5, 2011, Report **READ** and **ACCEPTED** and Bill **PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-166)**.)

(In Senate, May 10, 2011, Report **READ**.)

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

**READ ONCE.**

Committee Amendment "A" (H-166) **READ** and **ADOPTED**, in concurrence.

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

On motion by Senator **TRAHAN** of Lincoln, Senate Amendment "A" (S-80) **READ** and **ADOPTED**.

**PASSED TO BE ENGRAVED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-166) AND SENATE AMENDMENT "A" (S-80), in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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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 Regulate the Keeping of Wolf Hybrids  
S.P. 26 L.D. 11  
(C "A" S-50)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act To Amend the Laws Governing the Capital Reserve Funds of the Maine Educational Loan Authority  
H.P. 54 L.D. 66  
(C "A" H-149)

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

**Emergency Measure**

An Act To Improve the Rate of Organ and Tissue Donation by Establishing the Organ Donation Advisory Council  
S.P. 139 L.D. 435  
(C "A" S-57)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles

H.P. 370 L.D. 477  
(C "A" H-144)

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

On motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

An Act To Amend the Authority of the Washington County Development Authority

H.P. 839 L.D. 1127

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act To Permit Disposal of Abandoned Manufactured Housing

H.P. 487 L.D. 657  
(C "A" H-183)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 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 Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act To Amend the Laws Regarding the Determination of Domicile Based on the Geographic Location of an Individual's Bank

S.P. 339 L.D. 1130  
(C "A" S-59)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act To Clarify Maine's Phaseout of the "Deca" Mixture of Polybrominated Diphenyl Ethers

H.P. 690 L.D. 930  
(C "A" H-152)

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

Senate at Ease.

Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

**Emergency Measure**

An Act To Amend the Maine Limited Liability Company Act

H.P. 727 L.D. 983  
(C "A" H-135)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 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 Tem, was presented by the Secretary to the Governor for his approval.

**ENACTORS**

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

**Emergency Resolve**

Resolve, To Improve Access to Employment Opportunities for Persons with Intellectual Disabilities and Autistic Disorders

H.P. 20 L.D. 28  
(C "A" H-139)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

### **Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education  
H.P. 88 L.D. 106  
(C "A" H-148)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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### **Emergency Resolve**

Resolve, To Study the Promotion and Expansion of the Maine Maple Sugar Industry  
H.P. 91 L.D. 109  
(C "A" H-159)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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### **Emergency Resolve**

Resolve, To Change Rules Concerning Landfill Gas and Odor Management from Routine Technical Rules to Major Substantive Rules  
H.P. 157 L.D. 180

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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### **Emergency Resolve**

Resolve, Directing the Commissioner of Professional and Financial Regulation To Convene a Working Group To Review the Laws and Rules Governing Boilers  
H.P. 301 L.D. 375  
(C "A" H-176)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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### **Emergency Resolve**

Resolve, To Study the Creation of a School of Hospitality and Hotel Management within the University of Maine System  
S.P. 171 L.D. 579  
(C "A" S-70)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

### **ENACTORS**

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

#### **Acts**

An Act To Allow a Nonresident To Perform a Single Marriage Ceremony  
H.P. 120 L.D. 138  
(C "A" H-134)

An Act To Create a Short-term All-terrain Vehicle Registration System  
H.P. 152 L.D. 175  
(C "A" H-195)

An Act To Amend the Laws Regarding Tips Used in Payment of Service Employees  
S.P. 57 L.D. 207  
(C "A" S-58)

An Act To Make Changes to the Motorcycle Inspection Sticker Requirements  
S.P. 72 L.D. 221  
(C "A" S-66)

An Act To Permit Insured Persons To Designate a 3rd Party To Receive Notice of Cancellation of Medicare Supplement Policies and To Restrict the Cancellation of Certain Insurance Policies for Nonpayment of Premium Due to Cognitive Impairment or Functional Incapacity  
S.P. 93 L.D. 313  
(C "A" S-71)

LEGISLATIVE RECORD - SENATE, MONDAY, MAY 16, 2011

An Act To Change the Qualifications of Certain Members of the Board of Pesticides Control  H.P. 254 L.D. 321 (C "A" H-187)	An Act To Require Certification of Private Applicators of General Use Pesticides  H.P. 719 L.D. 975 (C "A" H-163)
An Act To Facilitate a Change of Location for Agency Liquor Stores  S.P. 105 L.D. 343 (C "A" S-68)	An Act To Provide a Remedy to Property Owners When a Tenant Defaults on a Lease  H.P. 742 L.D. 1006 (C "A" H-180)
An Act To Exempt from the Income Tax Military Survivors Annuity Payments  H.P. 284 L.D. 358 (C "A" H-136)	An Act To Require a Mortgagee To Provide the Original Release of Mortgage to the Mortgagor after the Release Is Recorded  H.P. 748 L.D. 1012 (C "A" H-202)
An Act Relating to Temporary Disability Parking Permits  H.P. 349 L.D. 456 (C "A" H-145)	An Act To Reduce Unnecessary Reporting Requirements Related to Natural Resources  H.P. 751 L.D. 1015 (C "A" H-199)
An Act To Amend the Laws Dealing with Limitation of Actions  H.P. 375 L.D. 482 (C "A" H-192)	An Act To Amend the Law Concerning Overboard Discharge Systems  H.P. 758 L.D. 1022 (C "A" H-151)
An Act To Allow a Waiver for On-premises Signs  H.P. 403 L.D. 520 (C "A" H-201)	An Act To Amend the Laws Governing Land Surveyors  H.P. 760 L.D. 1024 (C "A" H-203)
An Act To Assist the Commercial Fishing Safety Council  H.P. 421 L.D. 538 (C "A" H-168)	An Act To Protect the Privacy of Maine Residents under the Driver's License Laws  H.P. 803 L.D. 1068 (C "A" H-177)
An Act To Update the Radon Registration Act  H.P. 461 L.D. 631 (C "A" H-143)	An Act To Allow a Stay of an Administrative License Suspension for Refusal To Submit to a Test  S.P. 323 L.D. 1090 (C "A" S-61)
An Act To Allow a Portion of Snowmobile Registration Fees To Be Used for the Repair of Trail-grooming Equipment  H.P. 471 L.D. 641	An Act To Direct the Judicial Branch To Take Requisite Measures To Collect Fines and Penalties  S.P. 337 L.D. 1104
An Act Regarding the Milk Handling Fee  H.P. 514 L.D. 718 (C "A" H-162)	An Act To Enable Prosecutions for Criminal Invasion of Computer Privacy  H.P. 863 L.D. 1165 (C "A" H-185)
An Act To Increase Efficiency and Effectiveness in the Licensing of Certain Health and Human Services Providers  H.P. 566 L.D. 759 (C "A" H-171)	An Act To Make Changes to the Maine College Savings Program  H.P. 871 L.D. 1173 (C "A" H-208)
An Act To Allow Municipalities the Option To Subsidize Publicly Owned Bus Stops through Advertising  H.P. 608 L.D. 812 (C "A" H-169)	An Act To Promote Fairness in Negotiations between Health Insurance Carriers and Health Care Service Providers  H.P. 913 L.D. 1222
An Act Regarding the Minimum Stock Required by Agency Liquor Stores  S.P. 268 L.D. 864 (C "A" S-69)	An Act To Streamline the Liquor Licensing Reporting Procedure  H.P. 919 L.D. 1228 (C "A" H-137)

An Act Relating to Custom Vehicles

H.P. 958 L.D. 1306  
(C "A" H-200)

An Act To Amend the Washington County Development Authority

H.P. 983 L.D. 1342

An Act To Amend the Yarmouth Water District Charter

S.P. 448 L.D. 1441

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

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An Act To Provide a Sales Tax Exemption to Commercial Horticulturists

H.P. 187 L.D. 234  
(C "A" H-153)

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

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An Act To Exempt Certain Meals Provided to Food Service Employees from the Sales and Use Tax

S.P. 184 L.D. 604  
(C "A" S-53)

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

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An Act To Allow a Person To Receive a Designation of Active Military or Veteran Status on a Driver's License or Nondriver Identification Card

S.P. 304 L.D. 986  
(C "A" S-62)

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN**: Thank you Madame President. I just wanted to rise briefly to thank the committee for their work on this very important bill and also thank the Secretary of State, Charlie Summers, for his work on this bill as well.

Same Senator requested a Roll Call.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence. (Roll Call Requested)

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

## ENACTORS

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

## Resolves

Resolve, Directing the Department of Environmental Protection To Evaluate and Amend Its Rules Regarding Snow Dumps  
H.P. 266 L.D. 333  
(C "A" H-156)

Resolve, To Evaluate the Energy Use of the State House and the Burton M. Cross State Office Building  
H.P. 287 L.D. 361  
(C "A" H-92)

Resolve, Directing the Department of Environmental Protection To Amend Its Rules Governing the Length of Time Certain Permits Are Valid  
S.P. 266 L.D. 862  
(C "A" S-56)

Resolve, To Encourage the Use of Defibrillators in Health Clubs and Gyms  
H.P. 808 L.D. 1073  
(C "A" H-172)

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

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Resolve, To Implement Certain Recommendations of the Governor's Task Force on Expanding Access to Oral Health Care for Maine People  
H.P. 316 L.D. 390  
(C "A" H-170)

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

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Resolve, Directing the Commission on Governmental Ethics and Election Practices To Study Modifying the Maine Clean Election Act  
S.P. 251 L.D. 848  
(C "A" S-54)

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

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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:

**Pursuant to Constitution  
Public Land**

Resolve, To Authorize the Exchange of Interest in Certain Lands Owned by the State

S.P. 341 L.D. 1132  
(C "A" S-55)

In accordance with the provisions of Article IX, Section 23 of the Constitution, this requires the affirmative vote of two-thirds of the entire elected Membership of the Senate, 32 Senators having voted in the affirmative and no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by President Pro Tem  
**DEBRA D. PLOWMAN** of Penobscot County.

**ORDERS OF THE DAY**

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

**Emergency Measure**

An Act To Amend the Laws Governing the Capital Reserve Funds of the Maine Educational Loan Authority

H.P. 54 L.D. 66  
(C "A" H-149)

Tabled - May 16, 2011, by Senator **COURTNEY** of York

Pending - **ENACTMENT**, in concurrence

(In Senate, May 11, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-149)**, in concurrence.)

(In House, May 16, 2011, **PASSED TO BE ENACTED**.)

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

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

**Emergency Measure**

An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles

H.P. 370 L.D. 477  
(C "A" H-144)

Tabled - May 16, 2011, by Senator **ALFOND** of Cumberland

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 12, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-144)**, in concurrence.)

(In House, May 16, 2011, **PASSED TO BE ENACTED**.)

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

Senator **GERZOFSKY**: Thank you Madame President. Ladies and gentlemen of the Senate, first I want to start this off by giving my deepest apologies. I never get up and speak on a bill out of another committee but today I'm going to be forced to do it. Normally I don't speak on another committee because I don't know what I'm talking about and they usually do. This is a rare occasion where I actually have some expertise. We're going to be talking about motorcycles and mufflers and noise. Just moments ago we enacted a bill that was about motorcycle inspections. I actually co-sponsored that with the President Pro Tem, the Senator from Penobscot, Senator Plowman. I was proud to do that because I think that it's very important that law enforcement knows when they are behind a motorcycle that, at some point during that year, had an inspection. Automobiles do it. Trucks do it. Motorcycles do it also. I started looking at this bill, I looked at the original version and thought, "Gosh, this doesn't make a lot of sense to me, I'm going to have to put a muffler on a motorcycle that didn't get a set this year even though I bought two new sets last year." When I talked to members of the committee I found out that was the original bill and it was amended. I looked up the amended version and I was quite surprised to see that now we're going to ask our municipalities to go out and get decibel meters, which they don't have. This is an old argument for many years. We're going to now do decibel meters on mufflers. Well, I'm not going to tell my municipalities that they are going to have to go out and have to spend money to make a motorcycle run a lot quieter because that is what we're going to do when we can already do it now. We can muffle down motorcycles and they are muffled. If they are not muffled, if they have taken the baffles out of them, it's very easy for anybody in law enforcement to see because, unlike the automobile, a motorcycle has its muffler right on the side of the motorcycle. When you see that big chrome piece of metal that has two holes in it, that's the muffler. Law enforcement only has to look at it to see if it's been altered and to see if the baffles have been taken out. Then they can write a nice ticket. They can even say you can't move this motorcycle and you are going to have to have it towed or you're going to have to have it put in a truck, but you're

going to have to do it because you are not going to move the motorcycle because it's illegal. We have those laws on the books and they have been on the books since I was a young man and they had a problem with the hot rods being too loud. Motorcycles do run around too loud now. This bill was brought to us because of a bar down in Arrundel that has 500 or 600 motorcycles on a Saturday and probably 1,000 on a Sunday coming from two different locations, New Hampshire and Maine. When 20 of them leave that parking lot all at the same time it's loud. You have 20 Cadillac's leave a driveway at the one time they are loud also. I look at this bill as something that is really not necessary because we have plenty of laws in place, if law enforcement chooses to enforce them as they do in my community and most communities or we can ask our communities to go out and spend the money and buy decibel meters. That's an argument we went through in this Body several times over the years. I'm going to ask people if we vote to do the right thing, which is not putting an extra burden on our law enforcement, especially in our municipalities where they don't have the decibel meters nor do they want to go through the expense of maintaining and calibrating them. Instead we can let our municipalities to do what they currently can do, what the State Police currently can do, what the Sheriffs certainly can do, and members of this Body can remind them what they can do, what they have a law on the books to do and they do do it, and that is to enforce the laws that we currently have. Nobody should be riding around without baffles. It doesn't do the motorcycle any good. It doesn't do their ears any good. Believe me, it doesn't do me any good if I'm riding next to them and I choose not to. Please follow my light on this and use your commonsense. We've got the laws on the books. We don't want to add something that's going to cost our municipalities, our tax payers, even more money. Thank you very much for your time and your great amount of patience.

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

Senator **PATRICK:** Thank you Madame President. Just to add a little clarity, the bill that we are talking about comes from Supplement 3, Item 7-4, L.D. 477, "An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles." Just so that people listening will have that. I would ask a question through the Chair, if I may.

**THE PRESIDENT PRO TEM:** The Senator may pose his question.

Senator **PATRICK:** Thank you Madame President. Does anyone know where in the Joint Rules does it say that there is a time limit on the amount of time that you have to figure out whether or not you are going to vote yea or nay? Is there a time limit on the amount of time that we may take?

**THE PRESIDENT PRO TEM:** The Chair would answer in the negative. The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Madame President. Ladies and gentlemen of the Senate, this bill does not require any municipality to buy a decibel meter. What this bill does is it requires the police departments of Maine to write tickets to motorcycles that are too loud. We haven't been getting

enforcement and we've been getting thousands of motorcycles running round with straight pipes, which is clearly against the law. We don't allow cars with straight pipes and if they do have them then the police officer can write a ticket. As a positive defense, the owner of the automobile that gets a ticket can go and get a decibel reading and if it meets the State's requirement than that is a positive defense in court. Motorcycles will be treated the same. Once the violator gets a ticket then they can go and find a decibel meter, they can get that reading, and use it as a positive defense in court. It requires no municipality to get a decibel meter, but it allows police officers to write tickets for those motorcycles that are clearly too loud. We've got some homeowners in Maine who are being asked to endure hundreds and hundreds of these motorcycles every day that drive by. Can you imagine trying to sell a house with hundreds of these motorcycles going by with straight pipes on them? We've been giving so few tickets, the law hasn't been enforced. We have to give the police the ability to enforce these laws. That's what this bill does. We've had this problem for years and years and it won't go away. This method has worked with automobiles. It will work with motorcycles. It's a good piece of legislation and it requires no town to buy any special equipment. Thank you.

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

Senator **GERZOFSKY:** Thank you Madame President. Ladies and gentlemen of the Senate, here we go. I agree with most of what I've just heard from the good Senator, but when I read the bill, I read the amended version of the bill, I read that it takes 96 decibels for a 3 cylinder or 4 cylinder motor, 100 decibels for more than a 4 cylinder motor. I'm reading decibels. I don't know how you read decibels without a decibel meter. I don't know how my law enforcement, and neither do they, know how they are going to be able to say this sound is louder than XYZ decibels. It's true that we've had this issue for years hanging over us. Motorcycle enthusiasts have had it hanging over them. It became fashionable back in the 1950's to make your hot rod a little louder by putting cherry bombs on it or poking holes in the muffler. I'm not going to say I ever did that but I bet you can guess some people did. The problem with an automobile is that they hide the muffler underneath the body of the automobile. The problem with a motorcycle is that it's sitting right on the side of the motorcycle. You can't hide it. You can see if it's been tampered with. If it has been tampered with you will get a ticket. If it has not been tampered with, and it's running nice and quietly, you can see that also. Ladies and gentlemen, I stand by what I said. I listened to the good Senator and I agree with a lot that he said. Please follow my light and let's end this argument now. Thank you very much.

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

Senator **COLLINS:** Thank you Madame President. Ladies and gentlemen of the Senate, down in Southern Maine we have a lot of motorcyclists who enjoy the driving season. The unfortunate part about them is that they have straight pipes. They travel in convoy. I have to say prior to the billboard bill, I have received more phone calls and correspondence on this bill than any other bill since I've been in the Maine legislature, and I'm going on nine years now. The billboard bill surpassed it. It seems to be a

chronic problem with motorcyclists. For some reason, I'm not really clear why, the louder the bike the more they like it. Unfortunately, when you get numbers involved with ten, fifteen, twenty, or thirty motorcycles, all with the same issue of the straight pipes coming off the engine, it's an ungodly roar. People complain about it. It ruins their tranquility and peace of mind. They are in their backyards trying to enjoy a barbecue with the family or whatever and these motorcyclists are just so loud with the straight pipes. We have to do something in order to tighten up the regulations, the law, and also make some penalties involved. This bill, L.D. 477, does that very thing. I hope you follow my light, passage of this bill, and eventually send it down to the Governor's desk for signature and made into law. Thank you.

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

Senator **KATZ**: Thank you Madame President. May I pose a question through the Chair?

**THE PRESIDENT PRO TEM:** The Senator may pose his question.

Senator **KATZ**: Thank you Madame President. I apologize, I can't find the amendment. Does this bill, in fact, make it a violation to exceed a particular decibel level?

**THE PRESIDENT PRO TEM:** The Senator from Kennebec, Senator Katz poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS**: Thank you Madame President. The decibel rating is not the cause of the ticket. The violation is to operate a motorcycle without a muffler. That's the law. That's been the law for years. Where the decibel reading takes effect is it becomes a positive defense that the person getting the ticket can use in court to defend himself. In other words, if someone is riding a motorcycle that is too loud, without a muffler, which has been the law for years, they get a ticket. If they don't think that the ticket is justified they can go to a garage that has a decibel meter, that would be approved and there are approved places, and get the decibel reading and, if it meets the requirements of the law, they can use that as a positive defense in court. That's the only time that the decibel reading will be used. The offense is to operate a motorcycle without a muffler.

**THE PRESIDENT PRO TEM:** The Senator from Cumberland, Senator Gerzofsky, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **GERZOFSKY**: Thank you Madame President. All I know is the amended version of the bill I have in front of me. All I know is that it talks about being in excess of 92 decibels at an idle and omits noise that does not measure, part one, more than 96 decibels using the set RPM test, now you have to have a tachometer with you too I guess, on a configuration of 3 cylinders or 4 cylinders, so your talking British and Japanese motorcycles here. Part two, is more than 100 decibels. I don't know how you measure decibels without a decibel meter. Maybe somebody can explain that to me. I don't read this as a positive defense. I think

a positive defense is that I would have my baffles in or I don't. I think that is really the problem. I hear that we're talking about straight pipes. Well, they have been illegal in the state of Maine as long as I've been in the state of Maine. You can't have straight pipes. They are loud if they are straight pipes. If they have taken the baffles out they are straight pipes. You are breaking the law now, you always have been breaking the law, if you don't have baffles. It's very simple to see baffles. Just look. Law enforcement can look and see that. They don't need anything else. Thank you, Madame President, and thank the Body for its indulgence. Don't forget, I apologize for speaking out on a committee bill that I did not serve on. I truly feel that way. I never get up and talk about bills out of other committees.

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

Senator **PATRICK**: Thank you Madame President. A question through the Chair?

**THE PRESIDENT PRO TEM:** The Senator may pose his question.

Senator **PATRICK**: Thank you Madame President. I guess I wish someone could explain to me what is a muffler? Is it that nice shiny thing on the outside or is it the stuff on the inside?

**THE PRESIDENT PRO TEM:** The Senator from Oxford, Senator Patrick poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY**: Thank you Madame President. A muffler on a motorcycle is on the right side unless it's a custom built and then it could be on both sides. British bikes have them on the left side because they drive differently. Thank you very much, Madame President.

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

Senator **DIAMOND**: Thank you Madame President. Ladies and gentlemen of the Senate, I apologize for extending this. In regards to the answer to whether the good Senator from Cumberland, Senator Gerzofsky, has his baffles in or out, I cannot testify to that. What I can testify to is that this was a unanimous committee report. The Senator from York, Senator Collins, said that has been an ongoing problem in the committee well before I was on the committee this time. It's been a real issue with many neighborhoods. Many of your constituents have called us. We spent hours and hours on this, days even, in work session trying to find a way to address the noise issue. It really does not require any community to buy any decibel meters. It doesn't do any of those sorts of things. On behalf of the committee, we would hope that you would follow the unanimous committee report so we can at least address some of this noise problem that is now around the state to the point where many, many neighborhoods are losing their peace, if you will, during the times that they have with their families. Thank you, Madame President.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Enactment. 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 (#77)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, DILL, FARNHAM, GOODALL, HASTINGS, HILL, HOBBINS, KATZ, LANGLEY, MARTIN, MCCORMICK, RECTOR, ROSEN, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THIBODEAU, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: COURTNEY, GERZOFSKY, MASON, PATRICK, RAYE, SAVIELLO, SHERMAN, THIBODEAU, TRAHAN

EXCUSED: Senator: JACKSON

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 9 Senators having voted in the negative, and 25 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 Tem, was presented by the Secretary to the Governor for his approval.

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

An Act To Allow a Person To Receive a Designation of Active Military or Veteran Status on a Driver's License or Nondriver Identification Card

S.P. 304 L.D. 986  
(C "A" S-62)

Tabled - May 16, 2011, by Senator **COURTNEY** of York

Pending - **ENACTMENT**, in concurrence (Roll Call Requested)

(In Senate, May 5, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-62)**.)

(In House, May 16, 2011, **PASSED TO BE ENACTED**.)

On motion by Senator **TRAHAN** of Lincoln, 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 (#78)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBINS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS: Senators: None

EXCUSED: Senator: JACKSON

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

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

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Senate at Ease.

Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

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On motion by Senator **COURTNEY** of York, **ADJOURNED** to Tuesday, May 17, 2011, at 10:00 in the morning.