

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

In Senate Chamber  
Friday  
March 23, 2012

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

Prayer by Reverend Robin Honaker of Pilgrim Community Church in Warren.

**REVEREND HONAKER:** Let us pray. Holy god, sovereign Lord, loving Father, gracious Creator, we before You, praise You and thank You that Your grace has been shed on us and our beloved country. We have been created by Your hand for the sole purpose of giving You praise and honor. We are the human race, formed by Your spirit to show love, to show gentleness, and to be patient with one another. With Your sure and loving grace shape us to serve and bless those for whom we are responsible. Eternal God, from the beginning of time You have called us into fellowship with You, yet we, at many times, have turned our backs towards You and refused Your help. We have turned to our own way of doing things, to our own way of handling matters. We have turned to our own way of solving social problems. Forgive us these trespasses. Teach us to forgive and to be forgiven. Restore to us the joy of knowing You and to recognize Your reign among us. Redeem us to do Your holy work here and throughout this state, starting first with our families and then our neighbors. O God, be our compassion, be our guide. Lead and show us where to go and what to do. Wherever we are in this journey, grant us Your peace. We thank You for each other and for our diversity in this journey of faith. Bring us together to a new world of peace that we all may be one. May Your will be done on earth as it is in heaven and may the whole world be filled with Your glory. Bless the United States, bless this great state of Maine, bless us all as we strive to be one nation under God. In Your holy name we pray. Amen.

Pledge of Allegiance led by Senator Bill Diamond of Cumberland County.

Reading of the Journal of Thursday, March 22, 2012.

Doctor of the day, Peter Leighton, MD of Turner.

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

The President requested the Sergeant-At-Arms escort the Senator from York, Senator **COURTNEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

Off Record Remarks

Senate at Ease.

Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Amend the Law Regarding the Sale of Wood Pellets" (EMERGENCY)

H.P. 1219 L.D. 1610  
(H "A" H-755; S "A" S-450  
to C "A" H-727)

In House, March 13, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727) AS AMENDED BY HOUSE AMENDMENT "A" (H-755)** thereto.

In Senate, March 21, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-727) AS AMENDED BY HOUSE AMENDMENT "A" (H-755) AND SENATE AMENDMENT "A" (S-450)** thereto, in **NON-CONCURRENCE**.

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

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

**COMMUNICATIONS**

The Following Communication: S.C. 788

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
COMMITTEE ON INSURANCE AND FINANCIAL SERVICES**

March 21, 2012

The Honorable Kevin L. Raye  
President of the Senate of Maine  
125th Maine Legislature  
State House  
Augusta, Maine 04333-0003

Dear Mr. President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 125th Maine Legislature, the Joint Standing Committee on Insurance & Financial Services has had under consideration the nomination of Ellen Shillinglaw of Orr's Island, for appointment to the Dirigo Health Board.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Whittemore of Somerset, Brannigan of Cumberland, Snowe-Mello of Androscoggin
	Representatives	9	Richardson of Warren, Beaudoin of Biddeford, Fitzpatrick of Houlton, Goode of Bangor, McKane of Newcastle, Morissette of Winslow, Morrison of South Portland, Picchiotti of Fairfield, Treat of Hallowell
NAYS		0	
ABSENT		1	Rep. Beck of Waterville

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Ellen Shillinglaw of Orr's Island, for appointment to the Dirigo Health Board be confirmed.

Signed,

S/Rodney L. Whittemore  
Senate Chair

S/Wesley E. Richardson  
House Chair

**READ and ORDERED PLACED ON FILE.**

\_\_\_\_\_  
The Chair noted the absence of the Senator from York, Senator **SULLIVAN** and further excused the same Senator from voting on this matter.  
\_\_\_\_\_

The President Pro Tem laid before the Senate the following:  
"Shall the recommendation of the Committee on **INSURANCE AND FINANCIAL SERVICES** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 125<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#390)**

YEAS: Senators: None

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, CRAVEN, DIAMOND, FARNHAM, GERZOFKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

ABSENT: Senator: DILL

EXCUSED: Senators: SCHNEIDER, SULLIVAN

No Senator having voted in the affirmative and 32 Senators having voted in the negative, with 1 Senator being absent and 2 Senators being excused, and none being less than two-thirds of the Membership present and voting, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of **Ellen Shillinglaw** of Orr's Island for appointment to the Dirigo Health Board was **CONFIRMED**.

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

\_\_\_\_\_  
The Following Communication: S.C. 789

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

March 14, 2012

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

Dear Mr. President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on State and Local Government from the review and evaluation of the Office of the Secretary of State under the State Government Evaluation Act. In its review, the Committee found that the Office of the Secretary of State is operating within its statutory authority.

Sincerely,

S/Senator Douglas A. Thomas  
Senate Chair

S/Representative H. David Cotta  
House Chair

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

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Senate at Ease.

Senate called to order by President Pro Tem  
**JONATHAN T.E. COURTNEY** of York County.

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**ORDERS**

**Joint Resolution**

On motion by Senator **CRAVEN** of Androscoggin (Cosponsored by Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BRANNIGAN of Cumberland, COLLINS of York, COURTNEY of York, DIAMOND of Cumberland, DILL of Cumberland, FARNHAM of Penobscot, GERZOFSKY of Cumberland, GOODALL of Sagadahoc, HASTINGS of Oxford, HILL of York, HOBBS of York, JACKSON of Aroostook, JOHNSON of Lincoln, KATZ of Kennebec, LANGLEY of Hancock, MARTIN of Kennebec, MASON of Androscoggin, McCORMICK of Kennebec, PATRICK of Oxford, PLOWMAN of Penobscot, President RAYE of Washington, RECTOR of Knox, ROSEN of Hancock, SAVIELLO of Franklin, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SNOWE-MELLO of Androscoggin, SULLIVAN of York, THIBODEAU of Waldo, THOMAS of Somerset, WHITTEMORE of Somerset, WOODBURY of Cumberland, Representatives: AYOTTE of Caswell, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BEAVERS of South Berwick, BECK of Waterville, BELIVEAU of Kittery, BENNETT of Kennebunk, BERRY of Bowdoinham, BICKFORD of Auburn, BLACK of Wilton, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BRYANT of Windham, BURNS of Whiting, CAIN of Orono, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA of Naples, CELLI of Brewer, CHAPMAN of Brooksville, CHASE of Wells, CHIPMAN of Portland, CLARK of Millinocket, CLARK of Easton, CLARKE of Bath, CORNELL du HOUX of Brunswick, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CURTIS of Madison, CUSHING of Hampden, DAMON of Bangor, DAVIS of Sangerville, DILL of Old Town, DION of Portland, DOW of Waldoboro, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNPHY of Embden, EBERLE of South Portland, EDGECOMB

of Caribou, ESPLING of New Gloucester, EVES of North Berwick, FITTS of Pittsfield, FITZPATRICK of Houlton, FLEMINGS of Bar Harbor, FLOOD of Winthrop, FOSSEL of Alna, FOSTER of Augusta, FREDETTE of Newport, GIFFORD of Lincoln, GILBERT of Jay, GILLWAY of Searsport, GOODE of Bangor, GRAHAM of North Yarmouth, GUERIN of Glenburn, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARMON of Palermo, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HERBIG of Belfast, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, INNES of Yarmouth, JOHNSON of Eddington, JOHNSON of Greenville, KAENRATH of South Portland, KENT of Woolwich, KESCHL of Belgrade, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, KUMIEGA of Deer Isle, LAJOIE of Lewiston, LIBBY of Waterboro, LONG of Sherman, LONGSTAFF of Waterville, LOVEJOY of Portland, LUCHINI of Ellsworth, MacDONALD of Boothbay, MAKER of Calais, MALABY of Hancock, MALONEY of Augusta, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McCLELLAN of Raymond, McFADDEN of Dennysville, McKANE of Newcastle, MITCHELL of the Penobscot Nation, MONAGHAN-DERRIG of Cape Elizabeth, MORISSETTE of Winslow, MORRISON of South Portland, MOULTON of York, NASS of Acton, NELSON of Falmouth, NEWENDYKE of Litchfield, Speaker NUTTING of Oakland, O'BRIEN of Lincolnville, O'CONNOR of Berwick, OLSEN of Phippsburg, PARKER of Veazie, PARRY of Arundel, PEOPLES of Westbrook, PETERSON of Rumford, PICCHIOTTI of Fairfield, PILON of Saco, PLUMMER of Windham, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, RIOUX of Winterport, ROCHELO of Biddeford, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SANDERSON of Chelsea, SARTY of Denmark, SHAW of Standish, SIROCKI of Scarborough, SLAGGER of the Houlton Band of Maliseet Indians, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, THERIAULT of Madawaska, TILTON of Harrington, TIMBERLAKE of Turner, TREAT of Hallowell, TURNER of Burlington, TUTTLE of Sanford, VALENTINO of Saco, VOLK of Scarborough, WAGNER of Lewiston, WALLACE of Dexter, WATERHOUSE of Bridgton, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WILLETTE of Mapleton, WILLETTE of Presque Isle, WINSOR of Norway, WOOD of Sabattus), the following Joint Resolution:

S.P. 675

**JOINT RESOLUTION IN RECOGNITION OF THE CONTRIBUTIONS THAT WOMEN MAKE TO MAINE AND TO THE UNITED STATES**

**WHEREAS**, American women of every race, class and ethnic background have made historic contributions to the growth and strength of our nation in countless recorded and unrecorded ways, especially in the areas of political and social change; and

**WHEREAS**, the United States boasts a rich history of women whose vast and courageous achievements speak to the sense of excellence and potential shared by all Americans; and

**WHEREAS**, our country would not have attained its greatness without the strength, bravery, insight and persistence of the women who have come before us; and

**WHEREAS**, American women have played, and continue to play, critical economic, cultural, political and social roles in every sphere of the life of the nation by constituting a significant portion of the labor force working inside and outside of the home and in professions from educator to astronaut; and

**WHEREAS**, women have played a major role in the defense of our nation, both on and off the battlefield; and

**WHEREAS**, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement and other movements that create a more fair and just society for all; and

**WHEREAS**, women not only have played critical economic, cultural and social roles in our society but also have permanently changed the face of American government and politics; and

**WHEREAS**, Maine has a rich and vibrant history of women in leadership, including former Senator Margaret Chase Smith, perhaps best known for her contribution to the well-being of the United States and its people with her consistent stand for the condemnation of bigotry and injustice wherever she found them; and

**WHEREAS**, Senator Margaret Chase Smith was the first woman from Maine to serve in the United States Congress, the first woman in the nation elected to both houses of the United States Congress and the first woman to be placed in nomination for the presidency at a major party's convention; and

**WHEREAS**, the Maine Legislature has had several women elected to leadership positions, including the Honorable Elizabeth "Libby" Mitchell, the first woman in the United States to have been chosen as both House Speaker and Senate President, the 2nd-highest political position in the State, and the Honorable Betheda "Beth" Edmonds, the 2nd female Senate President in Maine history and the first to serve a 2nd term as Senate President, and the Honorable Hannah Pingree, the youngest woman to hold the position of House Speaker; and

**WHEREAS**, Maine currently has some of the strongest women leaders in the nation, including Senator Olympia J. Snowe, the first woman to serve in both houses of a state legislature and both houses of the United States Congress, Senator Susan Collins, the first woman to run for Maine Governor from a major party and Congresswoman Chellie Pingree, the first woman elected to Congress from Maine's First Congressional District; and

**WHEREAS**, within our state judicial system, Chief Justice Leigh I. Saufley is Maine's first woman Chief Justice of the Supreme Judicial Court; and

**WHEREAS**, the Honorable Janet T. Mills is the first woman to have served as Maine's Attorney General, as well as being a former District Attorney and Legislator; and

**WHEREAS**, we must take every action possible to promote women in leadership so that we can achieve fair representation in

our State Government, including recognizing Maine women's contributions to our state history; and

**WHEREAS**, in recognition of the contributions of women, the United States Congress has passed a resolution each year since 1987 designating the month of March as "Women's History Month"; now, therefore, be it

**RESOLVED**: That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize March 2012 as Women's History Month in Maine; and be it further

**RESOLVED**: That we encourage the residents of this State to observe Women's History Month by participating in programs, ceremonies and activities to foster an awareness of and appreciation for the contributions made by women that have benefited and improved society.

**READ.**

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

Senator  **CRAVEN**: Thank you Mr. President. Men and women of the Senate, the reason this Resolution is being re-presented is that there was a gaping omission on the last one. I take total responsibility for that. There were many, many brave and strong women that we left out of the previous Resolution. They are now included, except that I do have to add one more person. That is Senator Bev Daggett, who was emitted even from this one. Thank you, Mr. President.

On motion by Senator  **CRAVEN** of Androscoggin, **ADOPTED.**

Sent down for concurrence.

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## REPORTS OF COMMITTEES

### House

#### Ought to Pass As Amended

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Implement a Coordinated Strategy To Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand"

H.P. 256 L.D. 323

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-803).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-803).**

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

**READ ONCE.**

Committee Amendment "A" (H-803) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Repeal the Requirement That the Department of Labor Calculate the Livable Wage"

H.P. 1311 L.D. 1786

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-810)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-810)**.

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

**READ ONCE.**

Committee Amendment "A" (H-810) **READ** and **ADOPTED**, in concurrence.

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

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The Committee on **TAXATION** on Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2012-13" (EMERGENCY)

H.P. 1368 L.D. 1847

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-804)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-804)**.

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

**READ ONCE.**

Committee Amendment "A" (H-804) **READ** and **ADOPTED**, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste"

H.P. 646 L.D. 879

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-774)**.

Signed:

Senators:

SAVIELLO of Franklin  
GOODALL of Sagadahoc  
SHERMAN of Aroostook

Representatives:

HAMPER of Oxford  
AYOTTE of Caswell  
DUCHESNE of Hudson  
HARLOW of Portland  
KNAPP of Gorham  
LONG of Sherman  
NASS of Acton  
WELSH of Rockport

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-775)**.

Signed:

Representative:

INNES of Yarmouth

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)**.

Reports **READ**.

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-774) **READ** and **ADOPTED**, in concurrence.

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

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**Divided Report**

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Change Document Filing Fees for County Registries of Deeds" (EMERGENCY)

H.P. 1137 L.D. 1550

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-711)**.

Signed:

Senator:  
SULLIVAN of York

Representatives:  
COTTA of China  
BOLAND of Sanford  
BOLDUC of Auburn  
CASAVANT of Biddeford  
GRAHAM of North Yarmouth  
HARVELL of Farmington  
KAENRATH of South Portland  
MOULTON of York

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

Signed:

Senators:  
THOMAS of Somerset  
COLLINS of York

Representative:  
TURNER of Burlington

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-711) AS AMENDED BY HOUSE AMENDMENT "A" (H-806)** thereto.

Reports **READ**.

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

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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**Senate**

**Ought to Pass As Amended**

Senator HASTINGS for the Committee on **JUDICIARY** on Bill "An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts"

S.P. 622 L.D. 1802

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-463)**.

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

**READ ONCE**.

Committee Amendment "A" (S-463) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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Senator RECTOR for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Relating to the Governance of the Maine State Housing Authority" S.P. 615 L.D. 1778

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-467)**.

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

**READ ONCE**.

Committee Amendment "A" (S-467) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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Senator SNOWE-MELLO for the Committee on **MARINE RESOURCES** on Bill "An Act To Make Technical Changes to Maine's Marine Resources Laws"

S.P. 587 L.D. 1722

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-466)**.

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

**READ ONCE**.

Committee Amendment "A" (S-466) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend the Housing Provisions of the Maine Human Rights Act" S.P. 487 L.D. 1530

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-465).**

Signed:

Senators:

HASTINGS of Oxford  
DILL of Cumberland  
WOODBURY of Cumberland

Representatives:

NASS of Acton  
BEAULIEU of Auburn  
FOSSEL of Alna  
MALONEY of Augusta  
MONAGHAN-DERRIG of Cape Elizabeth  
MOULTON of York  
PRIEST of Brunswick  
ROCHELO of Biddeford

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

Signed:

Representatives:

SARTY of Denmark  
WATERHOUSE of Bridgton

Reports **READ.**

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

**READ ONCE.**

Committee Amendment "A" (S-465) **READ** and **ADOPTED.**

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

Ordered sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Define 'Person Aggrieved' in Proceedings before the Department of Environmental Protection and the Maine Land Use Regulation Commission"

S.P. 546 L.D. 1647

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

Signed:

Senators:

DILL of Cumberland  
WOODBURY of Cumberland

Representatives:

MALONEY of Augusta  
MONAGHAN-DERRIG of Cape Elizabeth  
MOULTON of York  
PRIEST of Brunswick  
ROCHELO of Biddeford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-464).**

Signed:

Senator:

HASTINGS of Oxford

Representatives:

NASS of Acton  
BEAULIEU of Auburn  
FOSSEL of Alna  
SARTY of Denmark  
WATERHOUSE of Bridgton

Reports **READ.**

Senator **HASTINGS** of Oxford moved the Senate **ACCEPT** the Minority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report.

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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:

**Emergency Measure**

An Act To Permit the Department of Marine Resources To Develop and Establish a Seafood Export Certification Program  
S.P. 553 L.D. 1654  
(C "A" S-449)

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.

Ordered sent down forthwith.

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**Emergency Resolve**

Resolve, Regarding Legislative Review of Portions of Chapter 61: Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education

H.P. 1300 L.D. 1766

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

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**Pursuant to Constitution  
Public Land**

Resolve, Regarding Access to Eastern Road in Scarborough  
H.P. 1340 L.D. 1817  
(C "A" H-770; H "A" H-799)

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, 33 Senators having voted in the affirmative and no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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**Acts**

An Act To Amend and Clarify the Public Charter School Law  
S.P. 607 L.D. 1762  
(S "A" S-451 to C "A" S-422)

An Act To Encourage Parental Involvement in Education  
S.P. 609 L.D. 1770  
(C "A" S-448)

An Act To Repeal the Requirement That Canadian Big Game or Wild Turkey Hunters Be Accompanied by Guides Licensed in the State and To Clarify the Laws Concerning the Civil Violation of Trespass by Motor Vehicle

H.P. 1310 L.D. 1785  
(C "A" H-766)

An Act To Amend the Laws Governing the Governor's Training Initiative Program

S.P. 639 L.D. 1844

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

Ordered sent down forthwith.

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**Resolve**

Resolve, Directing the Maine Economic Growth Council To Develop the Maine Prosperity Action Plan of 2012  
S.P. 444 L.D. 1437  
(C "A" S-447)

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

Ordered sent down forthwith.

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Senate at Ease.

Senate called to order by President Pro Tem  
**JONATHAN T.E. COURTNEY** of York County.

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**ORDERS OF THE DAY**

**Unfinished Business**

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/7/12) Assigned matter:

JOINT RESOLUTION - memorializing James Carignan, of Lewiston  
SLS 559

Tabled - February 7, 2012, by Senator **ALFOND** of Cumberland

Pending - **ADOPTION**

(In Senate, February 7, 2012, **READ**.)

At the request of Senator **BARTLETT** of Cumberland, the Joint Resolution was **READ**.

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

Senator  **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I am so proud and pleased to be able to stand and honor a fabulous and good man. James Carignan, Dean Carignan as I knew him, was an extraordinary man. He graduated from Bates College 1961. He became Dean of Men at Bates College in 1969 and Dean of the college in 1971. He retired from this post in 2003. Jim was involved in all aspects of



his community. He was committed to his community, his family, and a lifetime champion of education. He spent many years on the Maine State Board of Education and two terms on the Lewiston City Council. Jim was instrumental in establishing the Bates College Center for Service Learning, now the Harvard Center for Community Partnerships. This program creates opportunities for Bates students and faculty to partner with community members, uplifting the lives of children, promoting education, the arts, and the economy. On behalf of the people of Lewiston, I thank James Carignan and his family for their enduring contributions to our community. I'm so pleased today that Jim Carignan's family are here and because we were making lots and lots of noise when the Secretary was reading the sentiment, I am going to read some parts for the sentiment again in his honor. In memorandum, whereas the Legislature has learned with deep regret of the death of James Carignan, of Lewiston, retired longtime Dean of Bates College and former Lewiston city councilman. Dean Carignan joined his alma mater, Bates College, in 1970 as the dean of men. In 1971, at his urging, the college eliminated that position and made him Dean of Bates College, a position he held until his retirement in 2003. In addition, Dean Carignan served 2 terms on the Lewiston City Council and served on the State Board of Education, the Maine Learning Results Task Force and the St. Mary's Health Care System Board. We acknowledge his great contributions to education in Maine. He will be greatly missed and long remembered by his loving family, his friends and those whose lives he touched. Therefore, be it resolved that we, the members of the Senate and the House of Representatives, pause a moment in understanding and prayer to inscribe this token of sympathy and condolence to all who share in this great loss and respectfully request that when the Legislature adjourns this date it do so in honor and lasting tribute to the deceased. Thank you, Mr. President.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Mr. President. I rise as a Bates College alum to join with those paying tribute to the late Dean Jim Carignan. Dean Carignan was a giant in the history of Bates College. He left an indelible mark on his alma mater through his long tenure as Dean, a tenure that is remarkable for me to think continued for 20 more years after my own graduation from Bates. His devotion to education was not demonstrated only through his stellar career but also through his service on the Lewiston School Board and his long dedication as a member of the Maine Board of Education. I am pleased to join with Senator Craven in paying tribute to Dean Carignan and also honoring his family members who are here with us today.

**ADOPTED.**

Sent down for concurrence.

**THE PRESIDENT PRO TEM:** The Chair is pleased to recognize in the rear of the chamber Sally Carignan; her two sons, Mark Carignan and Paul Carignan; her daughter, Sarah Belanger; four grandchildren, James and Lily Belanger, and Ella and Maya Carignan. Would the family please rise and accept the greetings of the Maine Senate.

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The Chair laid before the Senate the following Tabled and Later (3/21/12) Assigned matter:

**SENATE REPORTS** -from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, Regarding Prequalification Processes for Contractors

S.P. 629 L.D. 1821

Report "**A**" - **Ought to Pass as Amended by Committee Amendment "A" (S-456)** (10 members)

Report "**B**" - **Ought Not to Pass** (2 members)

Report "**C**" - **Ought to Pass as Amended by Committee Amendment "B" (S-457)** (1 member)

Tabled - March 21, 2012, by Senator **ALFOND** of Cumberland

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

(In Senate, March 21, 2012, Reports **READ.**)

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

Senator **SULLIVAN:** Thank you Mr. President. I am going to vote in opposition to this only because, and not because I'm under any idea that this will change anybody's mind, I'm voting basically in a protest. I've had a discussion with the good Chair that I serve with and for whom I have great respect. The process got really messed up and I don't know a nice word to say it. It got bigger than it should have been and then smaller and it was crazy. There is no roll call on this. I apologize for not being here earlier. Is there a roll call on this? Then I'm not going to vote. I just wanted to stand up and say that process was wrong. No sense in putting us through a roll call. That doesn't make any sense. We need to be careful that the process does follow protocol. It's very important to us. Thank you.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I completely agree with my colleague from York County, Senator Sullivan. I apologize. I was sick, I had the flu. I tried to do this as best I could by the rules and I think there was some confusion. I just want to say I completely agree with Senator Sullivan.

On motion by Senator **THOMAS** of Somerset, Report "**B**", **OUGHT NOT TO PASS ACCEPTED.**

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Change Document Filing Fees for County Registries of Deeds" (EMERGENCY) H.P. 1137 L.D. 1550

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-711)** (9 members)

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

Tabled - March 23, 2012, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, March 22, 2012, 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-711) AS AMENDED BY HOUSE AMENDMENT "A" (H-806)** thereto.)

(In Senate, March 23, 2012, Reports **READ**.)

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

Senator **SULLIVAN:** Thank you Mr. President. I actually had received a note that we were going to do this one first, that's why that Unfinished Business sort of took me totally by surprise, but the whole day has. I would ask you to consider the Majority Ought to Pass as Amended by Committee Amendment "A". This has to do with the County Commissioners and the County Registry of Deeds. It is a situation our committee has dealt with, I believe, with three different bills dealing with this. Every single County Commissioner board is asking that this be passed. The amendment that was added on in the other Body is an amendment that simply adds that instead of having everybody, all counties at the same time, under the same rules, if the county needs help because they are recording lots of deeds and all that they have the right, as a county, to decide to raise the fees or not. That was an amendment and agreement reached by the counties. I would think that you've all heard from your counties by now. This is a compromise bill with that amendment being added on in the other Chamber. It's important that we give this to the counties. If we don't, all that is going to happen is that the tax rate of the entire county will go up and taxpayers will pay. There is not as much money coming in. There are not as many deeds or houses that are being sold. That is putting a hole in every single county's budget. That's basically what this is, in a nutshell. It's up to the county to do that. I would ask you to, please, vote in opposition to this vote here and instead later pass the Majority Report. Thank you, Mr. President.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, you know what? The economy is bad. We've all had to tighten our belts. Real estate sales are down. Some of the county revenues aren't what they used to be. My understanding is that the registries are still holding their own.

They have tightened their expenses, but revenues are down. We, at the State, have had to tighten our belts. Almost every household in my district has had to tighten its belts. Why should county government be exempt? Make no mistake. This is a huge tax increase. A huge tax increase, 40% probably. I think the people of Maine have paid enough in taxes. Their taxes are high enough so that we're discouraging businesses, we're discouraging people from creating jobs, and at some point in time you have to draw the line and say enough is enough and no more. I think the time has come. County government will get by without this increase. As the good Senator from York said, we have done everything we can to protect county government with deed bills. If the bill isn't bad enough by itself, the amendment makes it worse because we're going to increase taxes but we don't want our fingerprints on it so we're letting the county commissioners do it. There are 18 registries of deed in the state of Maine, some counties have two. If the amendment passes then the chances are good we'll have 18 different fee schedules. If someone needs to do a deed filing in another county they are not going what it is. If you send out the paperwork and pay to much you'll get it back. If you pay too little you'll get it back. How are you going to know? As it stands now, without this increase, we're consistent. I think that consistency is worth something. I believe that each and every one of us has had to tighten our belts in one way or another. I don't see anything wrong with county government tightening their belts. Thank you.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, you have waited almost two years to watch the good Senator Thomas and myself come to loggerheads. We're both smiling and laughing. As we have said in committee, this is not a tax increase. It's a user's fee. If you don't buy a house you don't need to put in for a deed and register it. Unfortunately, in all the counties, there is a set amount of money that the country registrar put into the whole budget. If they aren't getting the revenues because it's down there is nothing you can do to tighten your belt there. Nothing. You can't get rid of the skeleton crew that they have and the law says you have to have a place to keep these deeds and file them. They are protecting your livelihood; the businesses and any commercial residents. You have to have it. It is true that in some areas they may or may not all have the same amount of revenue. You know what? There is a big difference between Cumberland County and Washington County. They are asking, the commissioners are saying, "Let us feel and work with our people, our community." This is what your commissioners have asked you to put forth as their association. It is not a tax increase. It could be a tax increase because if there is a hole in this and the registrars don't have that money coming in, then it could throw off your county sheriff, your jails, county courts, and everything else the county does. This actually protects, or helps protect, your citizens in each county. Every single county was represented at the hearing by either a person or by the association of which they all belong to. I would ask you to, please, listen to the people who are working with the county budgets, just as we expect people to understand here what our Appropriations people do. The county commissioners are asking for this. Each county. With the internet, if you need to know how much a deed is I'm sure the good lawyer that's helping you work

with it will let you know what the deed price is in any county that he or she may have to deal with. Thank you.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this probably effects what I do for work more than anything. Not me, my pocketbook, because it's the client paying the bill. I would with the Registry of Deeds every day in my practice. There are two parts of this bill. One is the increase in fees and one is the amendment. I'd like to speak to them separately. Registry of Deeds, what is the purpose of a Registry of Deeds? The purpose of a Registry of Deeds is to provide that centralized gathering place for all documents dealing with real estate so that you can protect your interest and I can protect my interest. It's a place I can go and know that I have seen everything that is important about the title to that real estate. That's what it is all about. What we are doing with this bill is we're forgetting that. We're saying we need to make the Registry of Deeds into a profit center for the counties, which it has become over time. I would have sympathy for the counties if I understood that they were just generally losing money in the operations of the Registry of Deeds because the fees were too low. I think that is what the fees are all about. The fees are to provide the counties with the overhead they need to provide this service. What they have become are profit centers. The registries make a great deal of profit over and above their overhead. The counties are, understandably, going to use that in their budget and they have come to expect that profit. They are absolutely right. If they don't get that profit they have to either reduce their expenses or they have to shift to the property taxpayer who, ultimately, was intended to be the funder of county government. The property taxpayer. If the purpose of this bill is to replace that profit then I don't think it's the right way to go. It is, in fact, a tax increase. If the purpose of this bill is to make the counties whole in the operations of their registries then that is another story. That's not what I'm hearing. What I'm hearing is that profits are down. They are still making money but profits are down. I think is clearly a tax increase and as much as my county commissioners may disagree with me, and I understand their position, nevertheless, I think that is the wrong way to go.

I am really alarmed by the amendment, as a practitioner. The thought of having 16 or 18 different fee schedules around the state is very alarming to practitioners. A document doesn't become officially binding on anybody until it gets to the Registry of Deeds. If you send a check, let's say you send it off to Aroostook County or some other county, if you send too much or too little you're probably going to get that back in the mail a week later with a note saying the fees were wrong and the check will come back with it. You'll have to try to re-do it. How do you keep up with 16 different schedules? Think of an out-of-stater trying to file something into Maine who doesn't even know that. I don't know of any other state that actually has separate fee schedules in counties. I know New Hampshire, where I practice, has a uniform system, as Maine has always had. I urge you, whatever we do here, don't go and adopt the amendment allowing separate fee schedules. It is going to cause great hardship. It's going to put a lot work on the registries. Think about it. They are going to spend all this time sending back stuff that was filed with the wrong check. That will create another problem for them. I would urge

that you support the pending motion. Thank you very much, Mr. President.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I just rise today to address a couple of issues. One is that I generally agree with the good Senator from Oxford, and his comments, especially the importance of the Registry of Deeds and the preserving of it. I, too, as a practitioner, use it on a regular basis, but not nearly as often as the good Senator from Oxford. That being said, I do have some concerns with some of the comments that were stated today in regards to the counties making profit and that this bill, in essence, is to increase profit. I'm not on the committee, of course. I'm just going off what was given to us at our desks, the piece of paper that outlined the loss of all the counties. Out of the 16 counties 14, excuse me it is 13 that are running deficit and 2 appear to have gains. One of the registries in Oxford reported no info. To me, we have to think about, too, how the counties are funded. They are funded through our property tax quite a bit. As a result, county property tax appropriations frustrate me greatly because we all go to our town meetings. My hometown, for example, writes a check for approximately \$475,000 and off it goes each year with very little debate. If we keep having our registries lose money my town of Richmond and all of your towns are just going to see an increased appropriation at town meetings with very little debate and you are going to pay for it some other way. As the good Senator from York said, this is a fee for service and it's a fee for service that protects the integrity of the system and protects how real estate transactions occur, which protects the overall future property rights. I think that is something that we have to make sure stays intact in the state of Maine. It seems tome that this bill puts a good foundation in place. That being said, I think it is time that we finally get our hands around these Registry of Deeds issues. I think it is something that we should take a comprehensive look at next session because it seems to me, I've only been here, this is my forth year, that every year we deal with some pretty, I was going to use the word antagonistic, I guess it depends on which side of the bill you are on, complex and issues that are debated at great length around the Registry of Deeds. I really think this Body, along with the other Body, really needs to look into the issues and reform the system. Thank you very much, Mr. President.

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

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

Senator **BARTLETT:** Thank you Mr. President. Much of the opposition seems to stem around the idea that different counties could set different rates. I guess I'll just make two points on that. One, I for one wouldn't send a check to any registry without checking first about the amount that check should be written for. I wouldn't just go by hunch and what I thought other counties did. I would check to make sure I had the proper amount. Secondly, that issue really deals with an amendment that was put on in the House. It doesn't go to the bill or to the overwhelming Majority

Report. If the issue is really the variance by county, we should deal with that after passing the report and getting to the House Amendment. You can simply allow them to raise their rates, recover these losses that have been pointed out, and we could jettison the House Amendment if that is the will of the Body. If that's the real concern, than that is easy enough to take care of. Thank you, Mr. President.

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

Senator **HASTINGS:** Thank you Mr. President. I thank the Senator from Sagadahoc, Senator Goodall, for bringing up the yellow sheet with these numbers on it that was given to us. I think, though, that is not what they are saying. They are not saying, by this sheet, that this is what they lost, that this was their net result of the operations. What they are saying is that the registries, their in-house and internet copy revenue has gone down. They are not telling you that the operation of the Registry of Deeds, itself as a whole, has gone down. This is the result of a compromise that was written dealing with the sale of bulk records, another bill that we had dealt with. Their internet copy fees, or their copying charges, has been at 50¢ per page. They are telling us by this handout that their copy revenue has gone down. I do not believe they are telling us, unless I misunderstood, that every one of these counties now is losing money operationally. I believe, what I read, is the Registry of Deeds gain or loss summary in-house and internet copy revenues by county, all they are telling us is what their copy revenue is down and not their bottom line. Thank you, Mr. President.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I just want to address an earlier remark made by Senator Thomas because I think the record should really reflect accuracy when it comes to Maine's tax burden. I would just like to point all of you to the Council on State Government website and specifically a study that was commissioned by COST, the Council on State Taxation. The study was done by Ernst and Young on the competitiveness of business tax rates. Maine ranks number one. In other words, Maine has the lowest tax burden on new investment for businesses in the state. While it's easy to say, "Oh, we have such high taxes," I think the facts and people who study these things would say otherwise. Thank you very much.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I thank the Senator from Oxford. May I pose a question through the Chair in relation to earlier comments?

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

Senator **GOODALL:** Thank you Mr. President. To anyone who cares to answer, are the Registry of Deeds losing money as a whole? When you look at all of their expenses.

**THE PRESIDENT PRO TEM:** The Senator from Sagadahoc, Senator Goodall 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 Mr. President. Ladies and gentlemen of the Senate, I'll answer that question because I posed that question to the registers of deeds. They are very, very evasive. Finally I was able to get out of them that they are not losing money on the Registry of Deeds. They are making money. They just aren't making as much as they used to. Number one, the copy fees are reduced because we set the fees and we set them lower. That's what this yellow sheet is all about. That's how much those revenues are off. You have to understand, too, that when real estate was selling at the clip that it was selling at 10 or 15 years ago having a Registry of Deeds was similar to having a McDonald's. People were lined up and it was maxed. Counties have gotten used to that flow of revenue and they don't want to see it reduced and they want to keep it up. Think about this, too. We give them this huge increase in the copying fees and then we go back to the days when real estate sells fast again, because there is pent up demand out there for real estate and it's going to sell again. The economy goes in cycles. Are they going to come and ask us to reduce those fees or are they going to add more and more and more to county government? All of us have had to tighten our belts. Why should we exempt county government? Look at what we've gone through here because of the economy. My understanding is, to answer the question again and be very clear about it, that the Registry of Deeds more than covers their costs and they are not losing money, they are not the profit center they used to be. Thank you.

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Off Record Remarks

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

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

Senator **SULLIVAN:** Thank you Mr. President. I'm going to disagree again with my good Chair. Hopefully this will be the only day that I have to do this. How you ask the question if are they losing money or making money, really depends on the answer you get. As I understand it, the county government looks at each part of their budget; jails, sheriff, and I'm making these up as I go so maybe jails and sheriff goes together. The part of the county registry, they figure out how many people they have, what they are paying, what are the cost for machines, and all the different things. They are hoping, when all is said and done, that when they put together the budget the Registry of Deeds, if they said they needed \$10,000 to run that, would bring in \$10,000 for the fees. It's a wash. They give that back to the county government's budget. There is \$10,000 they are supposed to have. Here is the \$10,000 they raised. It's just like municipalities can only raise

taxes by property taxes, that is their source of revenue. The same thing is true for the Registry of Deeds. It's registering deeds. If these things don't match, what your budget was set at and what you are bringing in, are you losing money or not? Their feeling is you are because they still have to come up with \$10,000 to fill that hole in county government. The Registry of Deeds is not the entity in itself. It's the county budget and the money, the revenue, that the Registry of Deeds brings in needs to be enough to cover that. If they don't then technically you can say the Registry of Deeds is not meeting the needs to run that, so they are losing money. If that helps at all in how to explain it back and forth.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I am just sitting here not having much of a dog in the fight, but I was just listening to the debate and thought it talked about everyone needing to tighten their belts and thinking about how yesterday Anthem didn't have to tighten theirs.

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

Senator **ALFOND:** Thank you Mr. President. It gives me a wide opening to go from there. I'm going to get us back to the bill here for a second. What hasn't been chatted about this morning is the role of brokers in any sort of real estate deal. Not all transactions include a broker, but when a broker is involved you get a closing statement. In that closing statement it lists all the fees due. Those fees would include the registering of deeds, paying your lawyer, the legal costs. It wouldn't be any grand surprise to any buyer, whether this is a new fee that has increased or a different fee from county to county. That is number one. Number two, the good Senator from Oxford is suggesting that a one-size-fits-all fee structure is better. Then he also suggests that these counties aren't in any financial difficulty, which makes me believe that he actually would be supporting the amendment because what the amendment would do is allow each county to decide how much they have to increase their fees. If they don't need to increase their fees then they won't. If they need to increase their fees by a little bit they will increase them by a little bit. If they have to increase them by a lot because of their financial situation in their county then they will. I guess I don't quite understand the argument any more. In fact, I think this is a very solid bill and I'm hoping that people oppose the current motion on the floor. Thank you.

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Off Record Remarks

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, just lastly. I mentioned this very briefly in passing earlier when I referenced my own hometown of Richmond and the money that we send off in property taxes each year. I think we

really have to think long and hard about what we do, even in small steps and increments, that impact the property tax. Ultimately, if we do not allow the counties, registries, to be able to balance their budgets and run their shops appropriately and get the fees that they need for the service that they provide, it's going to go back on the backs of the property taxes. I know in my hometown, and I know across my district, county taxes frustrate taxpayers greatly because there is very little say just in the design of just how those budgets are created. A lot of that is due to inconvenience, probably, but the reality is that we have to be very cautious, as a Body, on what we do in regards to transferring burdens onto the property tax. It is small, albeit, but it's just another one if we don't have a course correction. As Senator Alford said, I think this is a very fair and reasonable bill and, in my opinion, it preserves the integrity, ongoing, of the registries. Thank you, Mr. President.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, when you look at county government, the county manager and county commissioners, they manage the county budgets, and sometimes the budget committee. To get down to it, it's very similar to a municipality or city. They have a managing entity, the board of commissioners or it could be selectmen in the town or city counselors. They all form budgets and they all have different profit centers. In municipalities it's real estates taxes. In county governments it's the Registry of Deeds. That's where the income comes into play. When you look at county budgets, you say their revenue is down. However, the Registry of Deeds department within the county government is still making a profit, if you want to call it that. They are able to pay their employees that work in that department. Overall, the budget is lacking because there is not enough, or the same, revenue coming in from the Registry of Deeds as was in previous years. It creates a hole. The county commissioners, as well as the county managers, can now make a decision to raise the taxes. Those taxes would go back to the municipalities. There would be an increase for towns in that county to make up for the shortfall. Quite simply, they would cut back on their payroll. Nobody likes to lay off people. I don't like doing it when I was in business. I'd rather have a root canal than lay off somebody. It is a necessity. It was mentioned in previous testimony that we are going through cut backs all across the state of Maine and all across this nation. I would hope that in some counties they would make that tough decision in lieu of increasing the taxes to municipalities. They would make that tough decision and say, "Well, we've got to cut back on our personnel to make up for the shortfall." It does come down to the local level in dealing with county government and county budgets. When I was in business we had some bad times and we had to lay off some folks with the hopeful prospects that things would turn around and get better and we would hire them back, and we did. Some people had moved on to different jobs, but nevertheless the offer was there. I think it comes down to who's managing that particular county that we're referencing. I'm from York County. We had a shortfall and had to lay off some folks for a while and we brought them back. There is also another profit center in county government and that deals with the jails. Sometimes they house prisoners from other counties or other states or whatever the case may be. That's also an additional profit center. All in all, most of it is the Registry of Deeds. That's

where the cash flow comes in. Most of those are doing well still. Nevertheless, there is a shortfall in a lot of county budgets and increasing a fee to compensate for that is nothing more, in my opinion, than a tax increase. I'm not for that. Thank you, Mr. President.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#391)**

YEAS: Senators: COLLINS, FARNHAM, HASTINGS, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, THIBODEAU, THOMAS, WHITEMORE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, KATZ, PATRICK, SHERMAN, SULLIVAN, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

EXCUSED: Senator: SCHNEIDER

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED.**

Senator **ALFOND** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-711)** Report, in concurrence.

Senator **THOMAS** of Somerset was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senate at Ease.

Senate called to order by President Pro Tem **JONATHAN T.E. COURTNEY** of York County.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#392)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SAVIELLO, SHERMAN, SULLIVAN, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

NAYS: Senators: COLLINS, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITEMORE

EXCUSED: Senator: SCHNEIDER

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **ALFOND** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-711)** Report, in concurrence, **PREVAILED.**

**READ ONCE.**

Committee Amendment "A" (H-711) **READ.**

House Amendment "A" (H-806) to Committee Amendment "A" (H-711) **READ.**

On motion by Senator **THOMAS** of Somerset, 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 (#393)**

YEAS: Senators: BRANNIGAN, SHERMAN, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

NAYS: Senators: ALFOND, BARTLETT, COLLINS, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, GOODALL, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY

EXCUSED: Senator: SCHNEIDER

3 Senators having voted in the affirmative and 31 Senators having voted in the negative, with 1 Senator being excused, **ADOPTION** of House Amendment "A" (H-806) to Committee Amendment "A" (H-711), in concurrence, **FAILED**.

Committee Amendment "A" (H-711) **ADOPTED**, in **NON-CONCURRENCE**.

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

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-711), in NON-CONCURRENCE.**

Sent down for concurrence.

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

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Define 'Person Aggrieved' in Proceedings before the Department of Environmental Protection and the Maine Land Use Regulation Commission"

S.P. 546 L.D. 1647

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

Minority - **Ought To Pass as Amended by Committee Amendment "A" (S-464)** (6 members)

Tabled - March 23, 2012, by Senator **ALFOND** of Cumberland

Pending - the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report

(In Senate, March 23, 2012, Reports **READ**.)

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, this is an interesting bill for those of you involved in court procedure, I guess. I'd have to say for most of my committee it was like a law school exam. What this bill is all about is who has the right to appeal a stacked decision to the full board; who has the right to participate in an appeal to the full board of the Department of Environmental Protection and LURC. The bills, as it came to us, attempted to give a definition of who

was entitled to do that. The rules of the Board of Environmental Protection and LURC allow a person aggrieved to appeal but does not define who that is. The bill came with a definition as to who that was, which the proponents said was substantially equivalent to the definition of who may appeal to the courts. Because the courts have already decided, if you appeal to the Superior Court they have already, by case law, decided who a person aggrieved is as a person with a particularized injury. It's just the idea that somebody has to have some skin in the game, if you will, to participate in the appeal. For instance, the courts will allow many of our natural resource agencies to be participants if, in fact, they have members who are close by or personally effected by the subject matter of the appeal. The primary objection by the opponents at the public hearing was that the proposed language in the bill in fact created a different standard than was required to appeal in court and made it a more difficult standard and raised the bar beyond what the court would require at that level.

Pardon me, Mr. President, but I got all wound up in the previous bill and have totally misplaced all my papers on this, so I'm going to stall for a second until I can find that and I'm still struggling.

The primary objection from the opponents of the bill at the committee level was that we're creating two different standards. There shouldn't be two different standards. It should be the same standard. In fact, they told us that, basically, both the Board of Environmental Protection and the LURC Board apply the same standard as the courts apply. The proponents of the bill said that's not the case. There have been many examples where they have allowed people in that had really no skin in the game. They did not meet the letter of the standing of having that particularized injury that would be required by the courts. In fact, the Natural Resource Council of Maine, I'll quote from their testimony at the public hearing. They said it would be confusing to have two different standards for appeal, meaning the standard to appeal to the DEP Board or LURC and the appeal to the Superior Court. That is what the Minority Report did. The Minority Report took that into account and replaced the bill, which had a definition of standing, with a committee amendment which simply directs both the Maine Land Use Regulation Commission and the Board of Environmental Protection to adopt rules to conform the standards for standing to appeal a decision to the commission to the judicial standards for standing to appeal a decision of the commission to the court. All they've done is said is that they've got to come up with rules that make.

**THE PRESIDENT PRO TEM:** Will the Senator defer. For what reason does the Senator from Cumberland, Senator Dill rise?

Senator **DILL:** With all due respect to my good Chair, I would just note that the amendment is not before us.

**THE PRESIDENT PRO TEM:** The Chair would rule that the Senator moved the Minority Ought to Pass Committee Amendment Report and that is what he is referring to, so it is properly before the Body. The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you Mr. President. Once again, what I am referring to is the Minority Ought to Pass Report as amended. The amended report, which replaced the bill with a direction to both LURC and the Board of Environmental

Protection to establish rules that create standards for standing to appeals to those boards to be exactly equivalent to the rules of standing to court. That's exactly what most of the opponents to the bill at the hearing asked us to do. They said we shouldn't have two different standards and we certainly should not have a standard at the board level that was higher than the appeal to court. We listened to that. In the Minority Report we have simply recommended, we have simply instructed, the two boards to establish those standards to be exactly equivalent. If you listen to one side, some of the opponents at the public hearing, they say it's unnecessary because they already do it. Well, then what harm is done? There were certainly plenty of those on the other side that say the boards have, in fact, gone beyond that. They have allowed people into the board hearings that would not have been allowed into a court hearing. In the end, pretty much everyone said that the standards ought to be the same. That's all the Minority Report does. I urge your support for the Minority Report. Thank you.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, this is an interesting bill. I would just note that in an environment of trying to reduce red tape and regulations, what the Minority Report on this bill attempts to do is to create more bureaucracy, more rules that are simply unnecessary. There has been no problem identified that we are charged to fix. The end result is a narrowing of the field of people who can participate in the process that has to do with the environment. You may ask: why should it be that more rather than less people should participate in processes regarding the environment? The reason is because the environment is a public good. It's unlike other things that people litigate about. It's something that we all have a stake in and the more people who are invested, the more people who participate results in an outcome that is wider and applies to a broad spectrum of our community. I would urge you reject the current motion and stick with the majority of the committee which felt that, at this time, with no showing of any particularized problem, with no need to burden administrative agencies creating rules, with no real need to narrow the ability of the public to participate in processes that deal with the environment, especially in Maine when the environment is one our biggest resources, that the bill is simply unnecessary. Again, I would urge you to reject the present motion and thank you very much.

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

Senator **SAVIELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, it was interesting that preparing for this bill and putting it forth, I had to go back to my law school days which never existed. Let me just clear the air a little bit first. I think it's very important. My goal is never ever to stop public participation. Anybody who knows me, knows how we work in the committee I chair, and in my prior life as the Chairman of the Pesticide Control Board, if anything I bend over backwards to make sure the public participates. This clearly deals with appeals. That's it. I apologize because when I came to the hearing I did not have any specific examples of most recent ones. I do now. I've shared those with some of you. Let me just make sure that we're clear about this. The amendment really

addresses what I'd like to see accomplished. In fact, in some places, the Board of Environmental Protection already has this. Statute says they can allow interested parties to appeal, but their own rules say only an aggrieved individual can do that. If you go further, and this is where I've learned new words that I never knew before, you find that an aggrieved person has to have a particularized interest. That's a big word for me. They have to have a particularized interest. I tried to understand what that meant. That meant somebody that directly abuts the property. That means somebody who hunts and fishes on a particular property that is going to be developed in a way that they, perhaps, don't want it. That means that the organization that that group might belong to could participate in the appeal process. I want to also clarify something. During the L.D. 1 process there were a number of people who approached me about this. Knowing I would never get agreement, even though I know my good friend Mike, I doubted him. I pulled it out and I said, "This is something we'll do separately." As in the flyer that was sent around, I want to also clear up the fact that, yes, there has been a law firm that has helped me, but that's at my request and not at their drilling down on this. I needed the information. I'm not a lawyer.

Let me explain to you an example and give you a real example that happened. There were 40 cases that were in front of the Board of Environmental Protection. There are five of them that this happened to. I'm just going to pick one because it happens to be the one I know the most about. It's one called Juniper Ridge. That's the landfill that we own outside of Old Town and Alton. They applied to take medical waste into that facility, something that is a non-hazardous material that's actually burned in Pittsfield and taken up there for disposal. They opened the hearing process. I want to just point out so people know that depending on the issue, whether it is air or solid waste, the hearing record can be opened as much as two months to two years for people to participate with new information they gather during that period of time. In this case they went forward with their amendment to allow that waste to come into the landfill. After deliberation the Board of Environmental Protection decided to allow them to do that. It was appealed. It was appealed by something called the Local Advisory Committee. They do not have standing. In fact, we, together, when the landfill was bought by the State, actually established a committee, in statute. Their responsibilities are to review proposed contracts, hold periodic public meetings, provide project developer and departments with alternative contract suggestions, and serve as the liaison with the local towns. They do not represent the towns. Their own mission statement says to act as a liaison between the public and parties involved in the process at Juniper Ridge. However, they were given standing because they represented the communities. They do not. We didn't even allow that as a committee, as a Legislature. What did it amount to? Ultimately, they were allowed to appeal. The appeal lasted four months. Lots of money being spent only, at the end of the day, to have the appeal denied. That's the problem. It's the four months. It's the petitions. It's all of that. If the people were truly part of the town, which the town would have been able to do that but the town decided not to go further in each of those, Alton or Old Town, then they definitely would have been part of the appeal process. They did not. It delayed the project.

What the amendment does is simply clarify the fact that if this is an appeal you have to have a truly particularized interest. Thank you very much.



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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, just briefly in response. In my experience as a lawyer, and I've been a lawyer for over 20 years, every single issue is litigated in a proceeding. The four months that it took to decide this particular case, which unfortunately we didn't have the benefit of learning about at the public hearing. Nonetheless, it sounds like it took four months in this particular case to resolve that one issue. I would submit that if we adopt the Minority Report and we have more rules that attempt to define who can and cannot participate in appeal it will take four months to determine whether or not they are an aggrieved person. We're not helping by increasing technical rules and increasing bureaucracy for the public to have to get over in order to participate in proceedings that deal with the environment.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, just for the record, especially for my Republican colleagues, I cannot always persuade the good Senator from Franklin to agree with me on environmental issues. Unfortunately, he and I do not agree on this and I would just, basically, lead with the statement; if it ain't broke why fix it? I disagree with the good Senator's example and a few other examples that may have been disseminated through the Body or members in the hallway because there is also an underlying due process by both LERC and the DEP when they hear these requests for appeals. In addition to that, sometimes, such as with the advisory committee example, members may not appeal because someone else is doing it for them. It's hard to go back and look specifically at certain examples, specifically dealing with Juniper Ridge because that is a hornet's nest to begin with. I think everyone would agree with that when it comes to people's feelings about that issue, the process, and how that has evolved. It is, obviously, in a much better place than it was when it first began. Getting back to the issue at hand, I think you also have to realize that the AG's office advises the DEP and LURC on all these issues. They are thought out carefully. They are reviewed. Often, when people are allowed to participate, when it is questionable, it is done so for the reason of due process. The good Senator from Cumberland talked about how if someone was denied the ability to appeal that ultimately that would be appealed to the Superior Court and that would just be further delay. I would disagree with the good Senator from Franklin and I would agree with the Senator from Cumberland. I do have a fear that this could result in additional litigation and more delay. We also have to look back at what the underlying reason for these boards are. They are an administrative body designed to hear appeals, especially appeals from the public. It allows people to do so by themselves, without hiring people like me, lawyers. If we want to make every process in state government involve a lawyer, and I hope we don't, we should keep adopting rules like this and statutes. We should preserve the right for citizens to easily go and appeal a decision. There hasn't been, in my opinion, the floodgates opening and it hasn't caused great problems. You can always make arguments in any situation that it could have been improved or it could have been strengthened or it was weakened

as a result of this and that. At the end of the day, it's not broke so let's not try to fix it because the end result is that we're just going to cause problems and we're going to erode public participation.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I don't practice in environmental law so I've listened carefully and with interest to the debate. As I understand it, this really is not about public participation. If there is a public hearing on an issue before one of these agencies and someone is driving through the state of Maine on vacation from Kansas and happens into the hearing and if they want to weigh in they can. Anybody can weigh in at a public hearing. That's good and that's appropriate. The board or the hearing officer can take into account what the person from Kansas may have told them about their own experience in their own state. It's not about public participation at that point. It's about appeals. Appeals are very different animals. On appeal that person from Kansas can't participate nor should he or she be able to participate because they don't have a particularized injury. That is what the agencies, themselves, say. You need to be an aggrieved person. You must have a particularized injury. What I've learned from my good friend from Franklin, Attorney in Training Saviello, is that the board apparently in case, after case, after case has not been following their own rules. If they are not going to do so then that seems to be a particularly good time to put the intent of their own rules and out intent into statute. I have dealt with cases where folks need to show they are an aggrieved person and I would respectfully disagree that that leads to a great deal of its own time consuming litigation; that is that there would be months and months of delay in deciding whether someone is an aggrieved person or not. Usually it's an affidavit that is filed. Maybe there is an affidavit in opposition. Then the judge, hearing officer, the board, or whoever it is, makes that decision. I respectfully suggest that on appeals that one should have to have a particularized injury. If there is an issue in town and there is an abutter in question, that person ought to have standing, but the person from the other side of the county who doesn't have direct skin in the game shouldn't. It's a matter of getting to good decisions and it's a matter of getting decisions quickly. I didn't participate in the hearings or the discussions about L.D. 1, but I thought that the main impudence of that law, as I understood it, was not to change the outcome of decisions we make in Maine but to get to them more quickly. To get to yes or no in a fairly short period of time so businesses that thinking of coming here or expanding here know that they will be able to get an answer and not going to have to wait four or five years before they can tell if their projects will go on. To me, this bill helps shorten the amount of time to get to yes or no on a particular issue while at the same time protecting at least the legitimate public input into the process. Thank you, Mr. President.

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

Senator **GOODALL:** Thank you Mr. President. I appreciate the good comments from the good Senator from Kennebec and I'd ask him to keep those thoughts close at hand when we get to a bill in the future dealing with deference because I'll be making

those exact arguments and I will seek your vote on that. Sorry to talk about another bill, Mr. President.

That being said, I just want to point out, in all seriousness, the good Senator brought up an issue and I don't want any of us to be misled by the process which often takes place. Often we think of issues in front of the Department of Environmental Protection and the Land Use Regulatory Commission as large public processes and hearings well known. Frankly, the person from Kansas could hear about it while driving through the state and reading it in the paper and coming to testify at the public hearing, but many of these decisions are happening in the agency and they are not decisions that do not have big public hearings. As a result, the public learns about them once the decision is rendered. At that point an appeal would happen at the Board of Environmental Protection or the Land Use Regulatory Commission. There hasn't been a big public process. We really have to think about those situations. Those are the overwhelming number of appeals that go to these boards. That being said, the board does have the ability to deny standing, however they are very careful on how they do that to make sure that there are not available appeals dealing with due process. In regards to the time it takes to have one of those decisions made by a court if someone appeals a denial of standing, I would surely hope that it would happen quickly but to get a decision for a Superior Court in just the matter of a few days or weeks is very unlikely. I would disagree with the good Senator from Kennebec, that is going to take a month at minimum, in my opinion. That being said, we just really have to focus on what happens in reality. Typically appeals can occur and they are going to occur from agencies on issues that have not had a lot of public debate and that note is very important to the ability of the public to participate. Thank you very much, Mr. President.

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

Senator **DILL:** Thank you Mr. President. I'll be very brief. Just in response to the good Senator Katz. If the problem is that we have agencies that aren't properly applying the rules then why would we deny an appeal from those very agencies? It just doesn't make sense to me. Thank you very much.

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

Senator **WOODBURY:** Thank you Mr. President. I am opposing the motion as well. I want to explain how I got there. As I see it, there are three distinct authorities in this decision making process about whatever the issue is. There is the department, an administrative department of government that is doing its role. There is a citizen review board that can kind of oversee things when somebody's not happy when the department does something. Then there are the courts. I'm going to ask for a little bit of leeway here, Mr. President, in talking about the Taxation Committee for a moment. In the Taxation Committee we very often hear complaints from people who feel like the department, as in the government, has gone and interpreted laws in ways that they don't think were fair or that were new without prior notice. People want some place to go for recourse. We haven't really had a citizen review process to evaluate what the department, as

in government, has done. Some of our work over the course of this year has been to create a place where citizens can go to get a re-review of what was done. Then of course you have the courts who can interpret the laws. Bringing this back to this bill. There is the department that makes an initial decision. There is a citizen review board that can review something when somebody's not happy with that decision. Then there are the courts that make sure that the process was done appropriately and that the law was interpreted appropriately. As I see this bill, it is taking away some of the leniency and the latitude of that citizen review board to decide for itself who the appropriate people are to be able to talk about and influence their deliberations. That's why I don't really like the direction that this bill is going in. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I listened with interest to the comments of my good friend from Cumberland, Senator Woodbury. I think that is exactly the point. If you are appealing from a decision of someone in the tax department about your taxes your cousin shouldn't be allowed to weigh in on it. That's exactly what we are getting at here. It is narrowing the field so that only those that really have interest in that appeal can participate. Thank you.

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

Senator **WOODBURY:** Thank you Mr. President. I appreciate that thinking that these citizen review boards very much do want to make sure that someone who relevant to the conversation is the one that they listen to. They should be the ones to decide. This is the public. This is the one place that is the public's chance to review what's happened. This is not saying that they can't stop someone from having standing. They absolutely can say that this person doesn't have standing. It's just that they elect to have the latitude to make that decision.

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

Senator **SAVIELLO:** Thank you Mr. President. I'll be brief. I will just say that I have 12 pages here that say exactly what the good Senator Woodbury said. They are being allowed to participate. This is not to stop the public from doing it. It allows the public to appeal. It's to be consistent in that decision, one day to the next and one case to the next, one permit to the next. Thank you.

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

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Hastings to Accept the Minority Ought to Pass as Amended by Committee Amendment "A" (S-464) 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 (#394)**

YEAS: Senators: COLLINS, DIAMOND, FARNHAM, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JOHNSON, PATRICK, SULLIVAN, WOODBURY

EXCUSED: Senator: SCHNEIDER

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **HASTINGS** of Oxford to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report, **PREVAILED**.

**READ ONCE.**

Committee Amendment "A" (S-464) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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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 **JONATHAN T.E. COURTNEY** of York County.

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Senator **ROSEN** of Hancock was granted unanimous consent to address the Senate off the Record.

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

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

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Senator **SNOWE-MELLO** of Androscoggin was granted unanimous consent to address the Senate off the Record.

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

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

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Senator **PATRICK** of Oxford was granted unanimous consent to address the Senate off the Record.

\_\_\_\_\_  
Senator **SULLIVAN** 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.

\_\_\_\_\_  
On motion by Senator **COLLINS** of York, **ADJOURNED**, until Monday, March 26, 2012, at 10:00 in the morning, in memory of and lasting tribute to James Carignan of Lewiston.