

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

In Senate Chamber  
Tuesday  
March 27, 2012

Pledge of Allegiance led by Senator Richard W. Rosen Hancock County.

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Reading of the Journal of Monday, March 26, 2012.

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Doctor of the day, Dylan McKenney, MD of Portland.

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The President requested the Sergeant-At-Arms escort the Senator from Knox, Senator **RECTOR** 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 **CHRISTOPHER W. RECTOR** of Knox County.

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Off Record Remarks

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

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Senator **MARTIN** of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator **MARTIN**: Thank you Mr. President. Ladies and gentlemen of the Senate, I am honored today to have the opportunity to recognize two of Waterville's bravest and finest; Rescue Technician Eion Pelletier and Lieutenant Shawn Esler of the Waterville Fire Department. These two gentlemen are being recognized today before the Body for their swift actions that recently saved the lives of two people at a local business in Waterville. On a routine follow-up inspection Rescue Technician Pelletier and Lieutenant Esler save the lives of two employees who were being exposed to high levels of carbon monoxide. Had it not been for their swift actions on that day there may have been a very different outcome to the situation, one that would be very tragic. As I'm sure you can all imagine, the work of a firefighter often goes unnoticed and under appreciated. I am pleased to be able to recognize these two individual and to say thank you to all of the Waterville Fire Department members. The residents of Waterville are truly lucky to have these brave men and women protecting them from harm. Thank you very much.

**THE PRESIDENT PRO TEM**: The Chair is pleased to recognize in the rear of the chamber members of the Waterville Fire Department; Fire Fighter Inspector Eion Pelletier, Lieutenant Shawn Esler, Captain Rodney Alderman, and Fire Chief David LaFontain. They are joined by members of their family and are all

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

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Prayer by Pastor Stephen Dean of Guilford United Methodist Church and Ripley United Methodist Church.

**PASTOR DEAN**: Thank you. Good morning. I thank you for this privilege to be here with you this morning. Just for the record, Doug Thomas does know me. I just had to do it Doug.

I'm going to begin this morning with a reading from Isaiah 40, versus 28 through 31. I think it's a good way to begin. Have you ever heard, have you ever understood? The Lord is the everlasting God, the Creator of all the earth. He never grows weak or weary. No one can measure the depths of His understanding. He gives power to the weak and strength to the powerless. Even youths will become weak and tired and young men will fall in exhaustion, but those who trust in the Lord will find new strength. They will soar high on wings like eagles. They will run and not grow weary. They will walk and not faint.

Let us be in the spirit of prayer. Holy and loving God, first let me say thank You on behalf of all who are gathered here today. Thank You for Your many and abundant blessings. Thank You for life itself, for the measure of health we need to fulfill our callings, for sustenance and for friendship. Thank You for the ability to be involved in useful work and for the honor of bearing appropriate responsibilities. Thanks as well for the freedom to embrace You or the freedom to reject You. Thank You for loving us even so from Your boundless and gracious nature. In the scriptures You have said that citizens ought to obey the governing authorities and You have established those very authorities to promote peace and order and justice. Therefore, I pray for our Senators and those who work in support of this governing Body. I am asking that You would graciously grant them wisdom to govern amid the conflicting interests and issues of our times, a sense of welfare and the true needs of our people, a keen thirst for justice and rightness, confidence in what is good and fitting, the ability to work together in harmony even when there is honest disagreement, and personal peace in their lives and joy in their task. I pray for the agenda set before them today. Please give us an assurance of what would please You and what would benefit those who live and work in and around our beloved state of Maine. Remember these words from Isaiah 40 as you go about your work. Those who trust in the Lord will find new strength. They will soar high on wings like eagles. They will run and not grow weary. They will walk and not faint. In closing, may our prayer reflect upon Your continued blessing upon these, your servants, and their families for today and all the days to come. We ask these things in Your blessed name. Amen.

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guests of the Senator from Kennebec, Senator Martin. Will they please to accept the greetings of the Senate.

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Off Record Remarks

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## PAPERS FROM THE HOUSE

### Non-Concurrent 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)

In Senate, March 23, 2012, on motion by Senator **THOMAS** of Somerset, Report "B", **OUGHT NOT TO PASS, READ and ACCEPTED.**

Comes from the House, Report "A", **OUGHT TO PASS AS AMENDED, READ and ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-456)**, in **NON-CONCURRENCE.**

On motion by Senator **THOMAS** of Somerset, the Senate **INSISTED.**

Sent down for concurrence.

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### Non-Concurrent Matter

JOINT RESOLUTION - in Honor of Women's History Month and in Recognition of the Contributions that Women Make to Maine and to the United States

S.P. 670

In Senate, March 20, 2012, **READ and ADOPTED.**

Comes from the House, **READ and INDEFINITELY POSTPONED**, in **NON-CONCURRENCE.**

On motion by Senator **ALFOND** of Cumberland, the Senate **RECEDED and CONCURRED.**

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### Joint Resolution

Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of:

Steven C. Tremblay, a native son of Waterville and longtime resident of Cape Elizabeth, founder of Alpha One and Alpha One Medical, Inc. In 1971, while he was a student at Worcester Polytechnic Institute, Mr. Tremblay sustained a spinal cord injury. In 1975 he was hired by the New England Spinal Cord Injury Foundation as its Maine Resource Coordinator. In 1978, he founded Adaptive Living for Physically Handicapped Americans, now known as Alpha One which, under his leadership, became one of the premier Centers for Independent Living in the United States. Mr. Tremblay also played a pivotal role in the creation of the Kim Wallace Adaptive Equipment Loan Program, now known as mPower, which is a State program that enables people with disabilities and businesses to purchase assistive technology and adaptive equipment and finance accessible environmental modifications. In 2000, the University of Maine at Farmington presented Mr. Tremblay with an Honorary Degree of Doctor of Humane Letters for his efforts to promote independence, respect and accessibility for people with disabilities in Maine. Mr. Tremblay will be greatly missed and long remembered by his loving family, his many friends and those whose lives he touched;

HLS 1083

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

### READ.

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, one snowy morning, very snowy, I got up and, through the phone and a phone tree, decided to cancel the day for Shalom House offices and then I went back to bed. About 8 o'clock I get a call from a guy named Steve Tremblay, who we honor here today. I don't know if you read it, but you can understand this if you did. He said, "What's going on?" His assistant's wife worked for Shalom, so he got the word that we were closing. He said, "I'm in here and I'm ready to go to work." He was a Republican and he knew I was a Democrat. He is a paraplegic, wheelchair bound, with a special vehicle. What he was saying to me was, "Look at me, I can get out and go to work. What's with you guys?" Steve was a persuasive person. He was a very important person to the handicapped community. People who are handicapped always found help with Alpha One, which was a group he started. He was nationally involved. He started a for-profit, it was called Wheelchairs Incorporated. He did scuba diving. He was quite a guy. He suffered a lot at the end. He had to give up his work there because of his disability. It was very painful. This is a fellow who many people have been or will be helped by him who will never know the great contributions he made to our communities. Thank you, Mr. President.

**ADOPTED**, in concurrence.

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Senate at Ease.

Senate called to order by President Pro Tem  
**CHRISTOPHER W. RECTOR** of Knox County.

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With reference to the action of the Senate whereby it **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE** on the disagreeing action of the two branches of the legislature on:

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)

The Chair appointed as conferees on the part of the Senate the following:

Senator **COURTNEY** of York  
Senator **SAVIELLO** of Franklin  
Senator **JACKSON** of Aroostook

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## REPORTS OF COMMITTEES

### House

#### Ought to Pass Pursuant to Statute

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs after Its Review of the Maine Health and Higher Educational Facilities Authority Pursuant to the State Government Evaluation Act"  
H.P. 1401 L.D. 1899

Reported that the same **Ought to Pass**, pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

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

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

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

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#### Ought to Pass As Amended

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Resolve, Regarding Legislative Review of Chapter 33: Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools, a Major Substantive Rule of the Department of Education (EMERGENCY)

H.P. 1360 L.D. 1838

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-820)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-820)**.

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

**READ ONCE**.

Committee Amendment "A" (H-820) **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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Restrict Further the Amount of Methamphetamine Precursors That May Be Bought or Sold"

H.P. 1266 L.D. 1714

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-822)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-822)**.

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

**READ ONCE**.

Committee Amendment "A" (H-822) **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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Allow the Maine Wild Mushroom Harvesting Certification Program To Be Self-funded"

H.P. 1343 L.D. 1823

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-823)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-823)**.

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

**READ ONCE.**

Committee Amendment "A" (H-823) **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 **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Laws Concerning Municipal Inspections of Establishments"

H.P. 1369 L.D. 1851

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-824)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-824)**.

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

**READ ONCE.**

Committee Amendment "A" (H-824) **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 **JUDICIARY** on Bill "An Act To Impose a Penalty for Making False Claims Regarding Affiliation with a Federally Recognized Tribe"

H.P. 1201 L.D. 1595

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-821)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-821)**.

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

**READ ONCE.**

Committee Amendment "A" (H-821) **READ**.

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Senate at Ease.

Senate called to order by Pro Tem  
**CHRISTOPHER W. RECTOR** of Knox County.

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Committee Amendment "A" (H-821) **ADOPTED**, in concurrence.

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

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 Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today a little bit hesitant, but I did want to get up and say that I think this is that slippery slope that we hear about so often. I have a pretty good idea of how this bill probably came to be introduced. While there is nothing I hate to do more than do anything that the Native Americans in this state wouldn't like, I can see this going down a road that I don't know that we want to be going down. If we do this I don't know what stops us from saying that if someone says that they are French and they are not that this would be a crime. I come from a different part of the state. I just have a hard time to believe that if someone that might think that they have Native American ancestry in them, that if say that they are Native American that they might be charged with a crime. I guess what's next? If someone lies we're going to charge them with a crime? I don't even know. I just can't understand what all the implications of this could be. It just seems to be, like I said, a real slippery slope. There is a lot of heritage here in the state. There are a lot of people that have different cultures in their background. To say that someone that might have made a mistake is going to be held responsible for a crime. Who's going to police this? Are we going to have people running around with charts of lineages, seeing what the ancestry is someone? I just don't understand how this can be that awful a thing that we would want to do this. I come from a town in Allagash. There is a place in Portland that makes Allagash Beer. I don't understand the connection to that either, but no one is saying that it can't be Allagash Beer because it's in Portland. I don't want to make light of it, but I really don't understand how this is going to make anyone feel better. I don't know who the people are that are profiting off of saying that they are Native American. I think that there are some people in this state that are actually trying to promote or at least embrace their actual ancestry. This bill seems to say that if you're trying to do that it's a crime if you have not already been federally recognized. I think that that recognition by the federal government is a long process. I just don't support it. Thank you very much.

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

Senator **HASTINGS:** Thank you Mr. President. Men and women of the Senate, I appreciate the comments of the Senator from Aroostook, Senator Jackson. The original bill, as brought before the Judiciary Committee, did make it a crime to fraudulently claim affiliation with a federally recognized tribe. After being worked in committee, the amendment that is before you today substantially altered that bill. The amendment that we are now voting, the committee amendment, number one, limits it substantially by saying that a person may not knowingly claim falsely to be a

member of any of the existing recognized tribes in Maine; the Aroostook band of Micmac, the Houlton band of Maliseet Indians, the Passamaquoddy tribe, or the Penobscot Nation alone. It does not extend beyond that. It's to fraudulently claim membership in one of those existing recognized tribes in Maine. Also does not create a crime, it's going to be reduced to a civil violation. One violates this law by not just by claiming to be a member of one of those tribes but to have the intent to obtain property to which one is not entitled to by making that claim. Basically, they are trying to get something of value and to obtain property to which a person is not entitled to. One must, to violate this statute, fraudulently misrepresent themselves to be a member of one of the four recognized tribes in Maine and to have fraudulently obtained something of value by doing so. If you do that you have committed a civil violation and not a crime. Thank you very much, Mr. President.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Passage to be Engrossed as Amended, 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 (#395)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, DIAMOND, DILL, FARNHAM, GERZOFISKY, GOODALL, HASTINGS, HILL, HOBBS, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, RAYE, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senator: JACKSON

ABSENT: Senators: CRAVEN, SULLIVAN

EXCUSED: Senator: PLOWMAN

31 Senators having voted in the affirmative and 1 Senator having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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**Senate**

**Ought to Pass As Amended**

Senator LANGLEY for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Prepare Maine People for the Future Economy"

S.P. 439 L.D. 1422

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-477)**.

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

**READ ONCE.**

Committee Amendment "A" (S-477) **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 THIBODEAU for the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Clarify the Regulation of Private Natural Gas Pipelines"

S.P. 660 L.D. 1883

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-479)**.

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

**READ ONCE.**

Committee Amendment "A" (S-479) **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 To Establish the Dental Adjudicatory Panel"

S.P. 301 L.D. 955

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-482)**.

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

**READ ONCE.**

Committee Amendment "A" (S-482) **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 **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Require the Maine Community College System, the University of Maine System and the Maine Maritime Academy To Report the Number of Students Enrolled in Remedial Courses"

S.P. 544 L.D. 1645

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-475)**.

Signed:

Senators:

LANGLEY of Hancock  
ALFOND of Cumberland

Representatives:

RICHARDSON of Carmel  
EDGECOMB of Caribou  
LOVEJOY of Portland  
MAKER of Calais  
McFADDEN of Dennysville  
NELSON of Falmouth  
RANKIN of Hiram  
WAGNER of Lewiston

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-476)**.

Signed:

Senator:

MASON of Androscoggin

Representatives:

JOHNSON of Greenville  
McCLELLAN of Raymond

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (S-475)** Report.)

Reports **READ**.

On motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-475)** Report **ACCEPTED**.

**READ ONCE**.

Committee Amendment "A" (S-475) **READ** and **ADOPTED**.

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

Send down for concurrence.

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**Divided Report**

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Strengthen the Unemployment Insurance Laws and Reduce Unemployment Fraud"

S.P. 589 L.D. 1725

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-483)**.

Signed:

Senators:

RECTOR of Knox  
MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham  
DOW of Waldoboro  
NEWENDYKE of Litchfield  
VOLK of Scarborough  
WALLACE of Dexter

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-484)**.

Signed:

Senator:

JACKSON of Aroostook

Representatives:

DRISCOLL of Westbrook  
GILBERT of Jay  
HERBIG of Belfast  
HUNT of Buxton  
TUTTLE of Sanford

Reports **READ**.

Senator **MARTIN** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-483)** Report

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-483)** Report.

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**Divided Report**

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Improve Transportation in the State"

S.P. 601 L.D. 1753

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-480)**.

Signed:

Senators:

COLLINS of York  
THOMAS of Somerset  
DIAMOND of Cumberland

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-481).**

Signed:

Representative:

HOGAN of Old Orchard Beach

Reports **READ.**

On motion by Senator **COLLINS** of York, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-480)** Report **ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-480) **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.

\_\_\_\_\_  
**ENACTORS**

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

**Emergency Measure**

An Act To Make Technical Changes to Maine's Marine Resources Laws

S.P. 587 L.D. 1722  
(C "A" S-466)

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 Measure**

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2012-13  
H.P. 1368 L.D. 1847  
(C "A" H-804)

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

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**Acts**

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  
(C "A" H-803)

An Act Relating to the Governance of the Maine State Housing Authority  
S.P. 615 L.D. 1778  
(C "A" S-467)

An Act To Amend the Requirement That the Department of Labor Calculate the Livable Wage  
H.P. 1311 L.D. 1786  
(C "A" H-810)

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  
(C "A" S-463)

**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.

\_\_\_\_\_  
An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste

H.P. 646 L.D. 879  
(C "A" H-774)

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 Oxford, Senator Patrick.

Senator **PATRICK:** Thank you Mr. President. Colleagues and friends, I am going to be voting in opposition to the Enactment of this bill. The Majority Report of L.D. 879 creates a policy that targets Norridgewock as the only location of a commercial dump expansion in Maine. It gives Waste Management favored status as the only company allowed expansion and rushes through a major policy change without effectively including the town of Norridgewock and effected stakeholders. This is not an emergency. Promoters of the dump expansion language in L.D. 879 claim area towns will lose their ability to affordably dispose of waste if this bill is not approved immediately. However, the Waste Management dump has over 10 years of capacity left. If there needs to be more capacity for waste disposal in the area that problem can be effectively dealt with in less than 10 years. It does not take that long to permit a dump expansion from start to finish and, facing numerous challenges, Casella's J.R.L. dump in Old Town was permitted in less than two years. I believe a functional stakeholder group is needed to develop good policy. Maine towns can safely and affordably meet waste disposal needs without rushing through special interest legislation. The best solution to this problem will only come with the town and effected stakeholders are involved. There has never been a stakeholder group to develop functional waste policy on the issue that includes the town of Norridgewock or people directly affected by living near waste facilities. A stakeholder group where all affected parties are represented needs to be allowed to meet and have the time to develop waste policy that will work for Maine people and businesses. There are too many questions that need to be answered before an informed decision can be made. There is over 10 years projected capacity for the Waste Management Cross Roads dump in Norridgewock, so there is no need to rush through a special interest legislation that overturns 20 years of waste policy without providing solutions, encourages one business at the expense of others, and encourages more out-of-state waste in Maine. I remember a piece of legislation that came before us three or four years ago that had to deal with arsenic infused pressure treated lumber. It seemed like the whole nation was doing away with that and they were going to use Maine as a dumping ground. I said to myself, "Wow, if Maine has one of the most important resources in the world, which is our water supply, I don't think that's a good idea." I don't think with 10 years still going on with the life of this waste site that we need to be rushing into this. I would encourage everyone to vote this down. Thank you, Mr. President.

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

Senator **SAVIELLO:** Thank you Mr. President. As you know, we had a hearing on this bill. Everybody came in and gave us their opinions and made some decisions. Let me answer one of the questions that talks about the 10 years. Again, based on my own personal experience, expanding a commercial landfill took 10 years. It started in 1998 and we finished in 2008. J.R.L., the Juniper Ridge Landfill, does not compare to what we're talking

about. Secondly, I represent, as you all know, most of the towns in Franklin County except one. Now all of the towns that are effected by this wrote to us. One was the town of Jay. I'll read the last paragraph from the Town Manager. "I believe we should closely monitor these expansions of landfills to protect our earth. I believe we should trust and verify anything that can cause environmental impact. If these pieces are in place, we should allow the expansion of the facilities that benefit the majority of the people of Maine. This is not the time to eliminate our options. Maine has problems, but by voting in a positive way you can ease some of the issue surrounding this one. Thank you for your time." It was signed Ruth Cushman, who is the Jay Town Manager. 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 rise today just to address some of the concerns and valid questions brought up by my colleague from Oxford. One, just to put into perspective and have everyone have the understanding of what has taken place, the timeline is appropriate. In 2007, there was a Blue Ribbon Commission who reviewed this issue, amongst others dealing with solid waste. In fact, they came out with a report and part of that the report was that it should be allowed, property purchased for expansion consideration at Norridgewock. In addition to that, in the 124<sup>th</sup> we had a bill that had significant deliberation amongst other solid waste bills, including recycling and including strengthening our hierarchy; reduce, reuse, recycle. We obviously have a bill here in the 125<sup>th</sup>, but it's also important to note that the Committee on Natural Resources, before Environment was added, spent at least three to five committee sessions discussing this issue, amongst other solid waste issues, over the Summer. We invited everyone in. We went above and beyond to make sure, over these years, that the town of Norridgewock had participated and had a voice at the table. In fact, we actually delayed consideration of the bill in the 124<sup>th</sup> because, under valid questions and concerns from the town of Norridgewock, they wanted more opportunity and we obliged and allowed that to happen. In addition, not brought up by my good friend and colleague from Oxford, there has been a question about what is contiguous property. How big can this expansion be? This expansion can only be upon contiguous property, but that has to be purchased and has yet to be done. You need to understand the site. The site is bounded by public ways as well as an airport owned by the town of Norridgewock. Obviously, the town of Norridgewock retains the title to that airport and, in fact, there are also FAA concerns about height on any expansion in the future, if it was to be undertaken. Contiguous, in the statute, means that it cannot go onto the other side of a public way. In addition, it is also important to note that in this bill we actually strengthened the public benefit determination, meaning the Department of Environmental Protection must determine that there is a public benefit to allow an expansion of this landfill. We have strengthened that. They must meet a higher burden, a higher threshold than is currently in law if we pass this bill. In addition to the timeframe, we're not talking about apples and apples when we compare Juniper Ridge to Norridgewock. Norridgewock, if they decide to go forward, has to purchase land. They then have to seek environmental permits and ultimately a long public process, which I'm sure will probably include appeals as well. Lastly, it is important to note, for everyone to understand,



how big this potential expansion could be. It's my understanding that the only available land, in light of the circumstances I outlined, would be one-half of the public benefit determination that was just approved at Juniper Ridge. That doesn't even account for the environmental regulations that may limit that further in scope. I hope I've answered a lot of questions. I hope I've also built the legislative intent of this bill and it is just important to reiterate that this does not mean that expansion will go forward automatically. It means that it will be considered, potentially, if Waste Management, the owner of Norridgewock, or a future owner decides and is able to buy contiguous land and, obviously, puts itself in front of the public process and very rigorous environmental standards that we have in this state. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Colleagues and friends, I guess I'll just touch upon a couple of things. I have the utmost respect for the Town Manager of Jay, as I do the citizens of Jay. The representative of Jay, Representative Gilbert, who represents the towns of Jay, Chesterville, New Sharon, Starks, and Mercer, Mercer borders Norridgewock and Starks is across the river from the dumpsite, spoke in strong opposition to L.D. 879 on the floor of the House on Thursday, March 22<sup>nd</sup>. Representative Gilbert stated that he received more calls about L.D. 879 from his constituents than on any other issue he dealt with since being in office. He explained that all of the calls were in opposition to the dump expansion bill. The importance of having the host municipality, I think, is extremely important and the question was ask, "Has the town of Norridgewock taken a position on L.D. 879, the landfill expansion bill for Waste Management?" I have a reply from Michelle M. Flewelling, the Town Manager of Norridgewock. The Norridgewock Board of Selectmen sent the attached April 13, 2011 natural resource letter to the Natural Resource Committee last Spring. "At the time of the testimony, April 2011, the Board of Selectmen had me testify against L.D. 879. On February 14, 2012, I testified before the Natural Resource Committee regarding the proposed D.E.P. amendments to Title 38 M.S.R.A.-1310-AA only to see attached L.D. 879 D.E.P. amendment ITR. The Board of Selectmen were required to hold an emergency Selectmen's Board meeting in order to respond to the D.E.P. amendments due to the short amount of time that was afforded us for review." Another question was asked, "Has the town been involved in crafting this legislation and been informed about this issue, hearings, and details of the legislation as it was developed?" Her statement was, "The town has stated repeatedly throughout the past three years that the rules and regulations that govern solid waste facilities have a strong impact on the town of Norridgewock and the community that has some strong concerns that they are falling through the cracks at the State level. In June 2012, the Board of Selectmen suggested the attached L.D. 1794 landfill expansion proposed amendment, which was not passed. Please see the June 22<sup>nd</sup> Natural Resource letter as well. At no time was the Board of Selectmen or myself made aware that Representative Phil Curtis was going to propose L.D. 879 until after it left the Revisor's Office." I think if this bill does go forward I hope it does take a lot of time before something happens because I think we've got to make sure that not only the towns but I think the citizens who live in those towns should have adequate time to

make sure that this is going to be good. I still will ask you to vote in opposition to this. Thank you.

**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 rise today not to take the place of the good Chairman but just to speak about some of the history that's taken place prior to the good Senator from Franklin coming back to the committee in the 125<sup>th</sup>. In the 124<sup>th</sup> and over the course of the Summer, there were valid concerns about the town of Norridgewock participating in the process. However, myself, amongst others, expressed significant concern and urging for the town of Norridgewock to participate and communicate with us. We have been very upfront with the town of Norridgewock. I will admit that early on in the process in the 124<sup>th</sup> we probably could have done better. That's the reason why we carried over the bill, amongst a few other reasons. It is my understanding, as it has been conveyed to us by the owners of the current landfill, that they have met and they have reached out significantly to the Board and to the Town Manager. I just wanted to put that onto the record. Lastly, I concur with the good Senator from Oxford. I hope, and as is required, that there will be a significant public process and I hope that the burden is not only as it is under law, under the Department of Environmental Protection, but the burden is also on the applicant to make sure that they reach out and have the proper and necessary public forums and informational sessions so that the public is informed when there is consideration of any potential application. Thank you, Mr. President.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#396)**

- YEAS: Senators: ALFOND, BARTLETT, COLLINS, COURTNEY, DIAMOND, DILL, FARNHAM, GERZOFISKY, GOODALL, HASTINGS, HILL, HOBBS, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOW-MELLO, THIBODEAU, THOMAS, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR
- NAYS: Senators: BRANNIGAN, JACKSON, PATRICK, WHITTEMORE
- ABSENT: Senators: CRAVEN, SULLIVAN
- EXCUSED: Senator: PLOWMAN

28 Senators having voted in the affirmative and 4 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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An Act To Amend the Labor Laws Relating to Certain Agricultural Employees

H.P. 898 L.D. 1207  
(C "B" H-691; S "A" S-460)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#397)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, WOODBURY

ABSENT: Senators: CRAVEN, SULLIVAN

EXCUSED: Senator: PLOWMAN

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

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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 (3/26/12) Assigned matter:

Resolve, To Require the Department of Transportation To Facilitate and Oversee a Study of the Feasibility of an East-west Highway

S.P. 570 L.D. 1671  
(H "B" H-805 to C "A" S-398)

Tabled - March 26, 2012, by Senator **COLLINS** of York

Pending - **FINAL PASSAGE**, in concurrence

(In Senate, March 22, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in concurrence.)

(In House, March 23, 2012, **FINALLY PASSED.**)

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in concurrence.

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-478) to Committee Amendment "A" (S-398) **READ.**

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

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, the bill as it is before us right now, prior to this amendment, addresses one of the issues that was raised when we debated this bill and the House Amendment, basically, allows a pay back. Which ever contractor gets this East-West highway contract would pay back the State and that was half of the concern. The other concern that was raised by myself and some others was the fact that in the Resolve that was passed out of committee and adopted by this Body it really didn't put a cap on it. It could be anything. It could be \$300,000 or it could be \$400,000 or it could be \$500,000, it could be any of those. What my amendment does is simply says that we all agree that there should be some kind of control on the money. Everybody is saying \$300,000 was and is the intent of the department. This simply says we're going to stop at \$300,000 and put at cap on it at that amount. That seems to be a responsible thing to do and it does address that open-endedness that now exists in the Resolve

as it passed. I would ask you to consider that maybe we want to do that for the taxpayers, at least to say that, yes, we want to do this. The money will be paid back and we are going to put a cap on it so that the amount of money that is being spent on this study, which, by the way, before it is paid back could be years and there is no interest on it at all, so there should be some kind of control, Mr. President. Thank you very much.

**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've been on the Transportation Committee for 8 years now, since I first came to the Legislature, both in the Minority and the Majority. In that time, I don't remember once, not once, us limiting the department in any study in any way. They do studies every year. They know what they are doing. Furthermore, the department has managed, in the time that I've been here, billions of dollars in highway funds. The most common complaint that I hear, both here on the floor and at home, is that they don't have enough to manage. My point is that we hire good people and we give them the latitude to do the job that we ask them to do. We have good people in place and they are doing a good job. Let's allow them to do that job and not micro-manage this important project. Thank you.

Senator **COLLINS** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-478) to Committee Amendment "A" (S-398).

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 Diamond.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, just very briefly. I would ask you to vote against this motion. This isn't about limiting what the department can do. It's just simply about putting some reasonable restraints. What we all hear about is government out of control. I'm not suggesting DOT is out of control or anything like that. It just seems like it's commonsense to put some kind of restriction. Everyone has said that \$300,000; what they are going to do? What is wrong with putting a cap and saying that's what it will be, \$300,000? That's all it is, Mr. President. Thank you.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by the Senator from York, Senator Collins to Indefinitely Postpone Senate Amendment "A" (S-478) to Committee Amendment "A" (S-398). 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 (#398)**

**YEAS:** Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, DIAMOND, DILL, GERZOFKY, GOODALL, HILL, HOBBS, JACKSON, JOHNSON, PATRICK, SCHNEIDER, WOODBURY

**ABSENT:** Senators: CRAVEN, SULLIVAN

**EXCUSED:** Senator: PLOWMAN

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **COLLINS** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-478) to Committee Amendment "A" (S-398), **PREVAILED**.

Committee Amendment "A" (S-398) as Amended by House Amendment "B" (H-805) thereto, **ADOPTED**, in concurrence.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-398) AS AMENDED BY HOUSE AMENDMENT "B" (H-805)** thereto, in concurrence.

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

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The Chair laid before the Senate the following Tabled and Later (3/26/12) Assigned matter:

Bill "An Act To Protect Gasoline Marketers from Liability for Selling Federally Mandated Gasoline"  
S.P. 557 L.D. 1658  
(C "A" S-413)

Tabled - March 26, 2012, by Senator **RECTOR** of Knox

Pending - **ENACTMENT**, in concurrence

(In Senate, March 13, 2012, **PASSED TO BE ENACTED**, in concurrence.)

(In Senate, March 22, 2012, **RECALLED** from the Governor's Desk pursuant to Joint Order (S.P. 673).)

(In Senate, March 26, 2012, on motion by Senator **RECTOR** of Knox, **RULES SUSPENDED, RECONSIDERED ENACTMENT.**)

On motion by Senator **HASTINGS** of Oxford, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-413)**.

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Off Record Remarks

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

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

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On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-413).

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Wednesday, March 28, 2012, at 10:00 in the morning.

On further motion by same Senator, Senate Amendment "A" (S-474) to Committee Amendment "A" (S-413) **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, the bill before us has been recalled from the Governor's desk, much to my surprise. I was informed that this bill had included a violation of the Dormant Commerce Clause. I'm sure you are all familiar with that. I've been practicing law for 35 years and it hasn't crossed my desk in the last 35 years. I'm sure some of the other attorneys here may be aware of it. What this bill does is provides protection from liability to retail dealers, distributors, and blenders of gasoline for any liability that arises from the sale of gasoline containing in excess of 10% of ethanol content under a federal mandate. It's all about keeping our convenience stores out of that dispute whatsoever. Personally, I believe that ethanol is the cause of some problems with the small engines I have and I know I've heard many other stories. We're told by the federal government that that is not the case and suppressed us. Nevertheless, right now we are required to include 10% of ethanol and it may go up. At any rate, in an attempt to protect blenders we included words that said we were protecting blenders other than refiners. That was the evil of this bill. Apparently the dormant commerce clause, because it had the practical effect of favoring out-of-state blenders over in-state blenders. We fixed this by taking out the words from the committee amendment "other than a refiner". That is what this amendment does. Ladies and gentlemen, I hope you will support this amendment and allow this bill to wind its way back to the Governor's desk. Thank you very much.

On motion by Senator **HASTINGS** of Oxford, Senate Amendment "A" (S-474) to Committee Amendment "A" (S-413) **ADOPTED**.

Committee Amendment "A" (S-413) as Amended by Senate Amendment "A" (S-474) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-413) AS AMENDED BY SENATE AMENDMENT "A" (S-474) thereto, in NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

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