

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

In Senate Chamber  
Tuesday  
June 14, 2011

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

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Prayer by Senator Nancy B. Sullivan, York County.

**SENATOR SULLIVAN:** Good morning. We do make it. The prayer will be very short. The pledge will be some opening remarks and then we will do the regular pledge, just so you'll sort of have an idea.

Lord, bless all Your people today, Flag Day 2011. Renew in us a united sense of government of the people, by the people, for the people.

You do have on your desk a blue sheet. You can sort of follow along with me. I promised a short prayer, but this part will be longer.

On January 14, 1969, Red Skelton touched the hearts of millions of Americans with his "Pledge of Allegiance", in which he explained the meaning of each and every word. Red Skelton's "Pledge" was twice read into the Congressional Record of the United States and received numerous awards. I have used this since former Senator Mary Black-Andrews offered it in this Chamber and I've kept it. I have used it in my classroom and I wanted to offer it one more time in my so-called teaching days. You will be my last class. I hope you perform well as we do this. I had expanded it afterwards into my lesson plans where we actually did it with the Preamble of the Constitution, setting up teams and seeing if they really knew what some of these documents were about. The kids loved it. They learned a lot. I hope you will love it and I hope you will learn at least some things from it. Thank you.

Red Skelton tells a group, I remember this one teacher. To me, he was the greatest teacher, a sage of my time. He had such wisdom. We were all reciting the Pledge of Allegiance and he walked over. Mr. Lasswell was his name. He said: I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as though it is becoming monotonous to you. If I may, may I recite it and try to explain to you the meaning of each word:

I - Me, an individual; a committee of one.

Pledge - Dedicate all my worldly goods to give without self-pity.

Allegiance - My love and my devotion.

To the Flag - Our standard; Old Glory; a symbol of Freedom; wherever she waves there is respect, because your loyalty has given her a dignity that shouts, Freedom is everybody's job.

Of the United - That means that we have all come together

States - Individual communities that have united into forty-eight great states. Remember this was in 1969. Forty-eight individual communities with pride and dignity and purpose. All divided with imaginary boundaries, yet united to a common purpose, and that is love for country.

And to the Republic - Republic - a state in which sovereign power is invested in representatives chosen by the people to govern. And government is the people; and it's from the people to the leaders, not from the leaders to the people.

For which it stands - One Nation

One Nation - meaning, so blessed by God.

Indivisible - Incapable of being divided.

With Liberty - Which is Freedom; the right of power to live one's own life, without threats, fear, or some sort of retaliation.

For All - For All - which means, boys and girls, it is as much your country as it is mine.

And now I'm adding a little bit extra here. Ladies and gentlemen, please join me in reciting the Pledge of Allegiance.

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Pledge of Allegiance led by Senator Nancy B. Sullivan of York County.

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Reading of the Journal of Monday, June 13, 2011.

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Senate at Ease.

Senate called to order by the President.

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**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator LANGLEY for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Establish Multidistrict Online Classes in Maine"

S.P. 206 L.D. 675

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-304)**.

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

**READ ONCE**.

Committee Amendment "A" (S-304) **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.

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Improve MaineCare and Promote Employment"

S.P. 481 L.D. 1520

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

Signed:

Senators:

- McCORMICK of Kennebec
- FARNHAM of Penobscot

Representatives:

- STRANG BURGESS of Cumberland
- FOSSEL of Alna
- MALABY of Hancock
- O'CONNOR of Berwick
- SANDERSON of Chelsea
- SIROCKI of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-303)**.

Signed:

Senator:

- CRAVEN of Androscoggin

Representatives:

- EVES of North Berwick
- PETERSON of Rumford
- SANBORN of Gorham
- STUCKEY of Portland

Reports **READ**.

Senator **McCORMICK** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion. The reason that I do is that we really need to provide an avenue for people to work their way out of poverty. I think that the reason that people hesitate to go back to work, especially in a low earning job, is that they are going to lose their health care insurance for themselves and their family. This would allow people and families to be able to buy into MaineCare and they

would be paying their rates at a sliding scale in a way that would make the health care coverage affordable for them. I realize that this has a fiscal note on it, but I think that keeping people at work, as they pay their taxes, certainly it would be a plus in the long run and certainly would be a plus for people to go back to work in a timely manner and to make sure that they held onto their jobs. We hear stories all the time of people who refuse pay raises in order to keep their health care coverage, their MaineCare. I think that this would also eliminate that problem in that it would offer people, workers, an opportunity to buy into a system that they could afford and that would allow them to keep their employment. Thank you very much, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. I rise because this was a bill that I introduced. While the writing is clearly on the wall as to where this is headed, I did want to just articulate a little bit more about the reasons why I put this in. A similar bill that I had originally introduced a few years back also had difficulty moving forward in light of the fiscal note that was attached to it. I was re-inspired over the course of the last campaign cycle when the current Chief Executive, who was then a candidate, repeatedly emphasized in his campaign the challenges that he had, as an employer, in offering one particular employee a raise. By offering a little bit more money per hour, that person was going to eligibility for MaineCare benefits for her family. Therefore, she did not want that raise. I agree with the Chief Executive, that is an unconscionable predicament to be in, where you make a dollar too much and your kids are going to lose their health insurance. It's a difficult problem. There is no question that the ramp that is created with MaineCare eligibility is an impediment to some people, trapping them on MaineCare instead of allowing them to go forward and gradually increase their earnings to a point where they can afford their own insurance or work into a job that provides that kind of coverage. That's what this bill intended to do, to simply say we need to have a ramp. We need to have an opportunity for people to buy into MaineCare at the end of their eligibility. If they've been on it for some period of time, let them buy that coverage for their kids at a graduated rate so that they can continue to earn more. I think it's unfortunate that the fiscal note comes out the way it does because it assumes that lots of people will buy in with these eligibility guidelines and doesn't consider that a lot of folks will be able to earn their way off of MaineCare, folks who are currently maybe trapped, at least according to the conventional wisdom. If they lose their eligibility under the current rules, they could buy this benefit and doesn't take into account that, ultimately, you could reduce the role. I introduced this because I agree with the Chief Executive and the position he took during his campaign. I was hoping that, in light of that, we might be able to inspire a broader discussion as part of the committee process and the budget process. Unfortunately, it didn't happen. I do think it is still an idea that is important and if we really want to talk about rewarding work this is the way to do it. Thank you, Mr. President.

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

Sent down for concurrence.

**Divided Report**

Eight members of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Create a Public Charter School Program in Maine"

S.P. 496 L.D. 1553

Reported in Report "**A**" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-301)**.

Signed:

Senators:

LANGLEY of Hancock  
MASON of Androscoggin

Representatives:

RICHARDSON of Carmel  
JOHNSON of Greenville  
MAKER of Calais  
McCLELLAN of Raymond  
NELSON of Falmouth  
WAGNER of Lewiston

Two members of the same Committee on the same subject reported in Report "**B**" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-302)**.

Signed:

Representatives:

EDGECOMB of Caribou  
McFADDEN of Dennyville

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

Signed:

Senator:

ALFOND of Cumberland

Representatives:

LOVEJOY of Portland  
RANKIN of Hiram

(Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Report "**A**", **Ought To Pass as Amended by Committee Amendment "A" (S-301)** Report.)

Reports **READ**.

Senator **LANGLEY** of Hancock moved the Senate **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-301)**.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I rise today in support of L.D. 1553, An Act To Create A Public Charter School Program In Maine. In this session the Education Committee heard upwards of 140 bills. The sheer amount of testimony was daunting. Yet through all the hours of testimony, there are times when a testimony that is given sticks with you. One day we heard testimony where the speaker, in essence, said the gift of speech is when you can boil down a large amount of information to a single word. I thought long and hard about the one word I would choose to describe this legislation, to allow charter school in Maine, and for me that word is hope. Hope starts when you first take your child home from the hospital. Hope the baby will sleep through the night, hope the baby will not be allergic to baby food, and so on. We have members of this Body who are experiencing that emotion of hope, either as an expectant parent or as a new parent. For those of you who experienced your child's first day of school, when your child bounds up the stairs of school and does not look back, there is something special about that day. You hope your child likes school. You hope they like their teacher. You hope they like their classmates. You hope your child fits in and is accepted and also accepts others. Those first days of school are filled with hope and that hope never ends. For some families, a day comes when their child is not happy at school, does not feel they fit in, starts to check out of the process, and that day is the beginning of a loss of hope.

I know this sounds a bit melodramatic, but, in my nearly 30 years of teaching in a technical high school, I've seen countless numbers of students who entered my classroom with desperation in their eyes; so hoping to fit in, hoping to succeed, and desperate to be engaged in learning. The most rewarding part of being a teacher, for me, was watching that desperation turn into self-esteem as students learned skills that were valuable. As these students became respected for what they could do, that self-esteem turned to confidence; confident that they could go into the world with skills that we in demand and be successful. That confidence, in my observations of nearly 30 years, turns into contentment with a quality of life. For years, this has been verified by parents who have told me, "Your school saved my child." That's why I am here, why I ran for the Legislature, to be a voice for those students who are often cast away, considered second class, and disenfranchised by the current educational system.

I don't believe that charter schools are a silver bullet. Educating our children, in this day and age, is a complex undertaking as we try to meet the needs of all children. This is a daunting task. Every person I speak with wants the very best education for every child. If passed, this bill will provide another option for our students, an option that may save some children. This bill is quite lengthy, but for those of us who were here in the 124<sup>th</sup>, this is a second look at this legislation. Changes have been made to the bill that reflects amendments to the legislation that passed in other Body in the 124<sup>th</sup> and also reflects changes that caused its failure in this Body. Here are just a few highlights. The bill requires that any charter school application include evidence of a need and community support, including discussions with school administrative units where the school would be located. The Department of Education is responsible for oversight of authorizers to include developing standards and the ability to sanction. The State Charter School Commission will consist of 7 members appointed by the State Board of Education. Three members are from the State Board and 4 others appointed.

It provides grade level enrollment limitations during the first years of a charter school's operation to no more than 5% of a school administrative unit's per grade level for the first 3 years if that school has less than 500 students. It provides for no more than 10 charter schools in 10 years unless a public school converts. No school can apply before July 2012. It also clarifies that the funding is the EPS per pupil rate not the actual amount of per pupil funding raised by local units. Lastly, and most important to me, this bill provides that all the rules adopted by the Department as major substantive rules, subject for review by the Legislature. That means all the rules will be subject to public hearings in the second half of the 125<sup>th</sup>. Those rules will come back to our committee to be hashed out in great detail. Then they will come here, back to this Body, for final votes. This is a level of oversight that rarely happens, but when it does legislation is made much better. Men and women of the Senate, I have great hopes that you will support the Majority Ought to Pass Report and give our students another option. Thank you very much, Mr. President.

On motion by Senator **LANGLEY** of Hancock, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-301) ACCEPTED.**

**READ ONCE.**

Committee Amendment "A" (S-301) **READ.**

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

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to thank my good Chair from Hancock for a very excellent talk about hope and I thought we did some incredible work in the Education Committee this session. I was really proud of the work that we did and it was an honor to serve with him on the Education Committee. I would, potentially, use the frame of hope and chance because I think what we're doing here is we're taking a great leap of chance here with this bill. It disturbs me because there are so many unanswered questions.

Before I get to the unanswered questions and the challenges that I see with this bill, I first want to talk about all the good that the State of Maine already does, because for every time that I can I want to honor the work that's already being done in our public schools. Right now our current graduation rate is 82%. It's not as high as we would like it to be, but it has improved almost 3% since the last time that was taken a year ago. We have been innovating in our public schools. We already have an initiative called multiple pathways. We already have initiatives that allow extra learning opportunities. We have student centered instructions. We have response to intervention. There are many things that we are doing in our public schools and we are doing them well. I think our teachers, our administrators, and those who are in the trenches really deserve our utmost respect.

Along with the frame of hope and chance is another word called results. Maine is one of only 10 states that doesn't have charter schools. I think reason why is that we've looked around the country and seen how the results have been in other states.

The results are not glamorous. When you have situations where 37% of the charter schools do worse than our public schools, 46% do the same as our public schools, and the remainder do better, you are talking about under 20% of charter schools throughout the whole country that do better than our public schools. That's a game of chance. We're saying 20% of the time, under 20% of the time, charter schools do better. When you look deeper into that, those charter schools that do better have some very, very serious restrictions going on. They restrict who goes into the school. If you don't go and do everything that they ask, both as parents and students, you are asked to leave. There are all kinds of things. I think that why I use the game of chance here is that I think we are truly taking a big leap of faith here by even allowing the charter school legislation that we are debating here today.

Let me just talk about some states that have charter schools and what their graduation rate is statewide. Remember, ours is 82%. The state of Florida, 58%. That's their graduation rate. They have 396 charter schools. Georgia, 56% graduation rate. Texas, 55% graduation rate. D.C., where Michele Ree tried to reinvent what was going on in their school system, 49% graduation rate. These are things that often Maine is faulted for leading. *Dirigo*, we lead. We haven't lead on this issue for multiple good reasons. Part of it is that our results today are better than most states that have lots and lots of charter schools. Remember, those states, all the states and all the charter schools that have been put out there, under 20% of them do better than our current public schools.

This was no fault of the Chair, but let's talk about the process of this bill. Through a very interesting kind of scheduling conflict, two people heard the public hearing; the Chair and the bill sponsor. Every single other person, all 11 members, were out of the committee besides myself for 10 minutes. I actually walked in for those 10 minutes and it was quite a sight. You had a full room. You had people very excited on both sides of the issue, but you had two people listening to the public hearing. In fact, because of I guess the good Chair's exhaustion of running the committee and asking questions, the bill sponsor started asking questions to people coming up in front of us, which I know is an odd thing because that is typically not how things get done. The process was very odd, one that a lot of people on the committee did not really think was the right approach because we all missed the public hearing. It is a very long bill. The bill came up with an amendment, which was even longer than the bill. Then the Commissioner of Education came in with a full two pages of more amendments. We've got a very complicated bill here that I think even the most ardent supporters would have a challenge telling you every aspect of what is in this bill, which is disappointing because if we move forward today we are taking a chance on what we're getting.

Let me talk about some of the things that at least I understand and probably am pretty confused about. Special education; obviously, we know in our public schools this is a big part of our public school costs. It's important for our students, once they are identified for special education, to get the education they need. In this bill the bill, apparently, promises charters independence and autonomy over special ed determinations, IEPs, and programming. I don't know how you rectify this. I know we have a lot of lawyers in this Body, but I'm sure they are interested in knowing about that little piece. I think this is just law suits waiting to happen.

Duplication; overriding this entire bill is the assumption that we need more schools. I think we need better quality schools and we're working on that in our public school systems. Do we need 10 more new schools? When we add these 10 new schools, we will be creating parallel system of administration, more State bureaucracy, and will be diverting funds to these charter schools from our existing budgets in our local communities. I think this is the wrong approach, to be adding more duplication to a system that already is underfunded by \$400 million.

New bureaucracy; right now the good Chair from Hancock, Senator Langley, talked about a new bureaucracy. We need, apparently, new bureaucracy at the State level. An administrative bureaucracy called the State Charter Commission. This is 7 members, 3 of them being part of the State board and 4 of them being elected by the State board. We elect those State board members on the Education Committee. They come in front of this Body and we decide yes or no. With these 4 other members, we have no idea, other than we trust the State board members, the 3 of them that are on this new bureaucracy called the State Charter Commission, to find 4 people that will look out for the best interest of education in the state of Maine. Again, I'm not sure why we need more bureaucracy. This new State Charter Commission has the ultimate power to authorize any charter school. Let me just say that again. These folks, that mostly are unelected, can authorize any charter school in the state of Maine. Yes, they have to go through the process of going to the Department of Education. Your local community has no input at all on creating a charter school. That's okay, because as long as a couple of parents want to get together, and they do all the steps that the DOE lines up, they can create a charter school in your community. They just go right to the State Charter Commission and they go that pathway. They divert the entire local process. Taxpayer money going to this new authority; this new authority, this new bureaucracy, this State Charter Commission, somehow in this bill needs to keep 3% of the charter school's costs. I'm not sure why there is never great reasoning given to me, but this is taxpayer money being used for this new bureaucracy. I guess that's important to them. I think it should be important to all the taxpayers of Maine.

Loss of local control; I spoke about this earlier, but not only can the State Charter Commission go around local control as far as having any input in creating a charter school, but in addition we all go through a budget validation process in our communities. We all watch our school committees struggle to come up with the best funding possible for our communities. Apparently that is not the same playing field that the State Charter Commission thought that charter schools should have. They have no checks and balances in their communities at all around using local taxpayer money. I think we have fought hard here to create that budget validation process. State charters, these charters, do not go through that at all.

Loss of local funds; if a student in your community goes to a charter you can, basically, start waving goodbye to 99% of whatever funding that pupil gets in accordance to the funding of the State Funding Formula. Let me just make this crystal clear. If you are getting \$8,000 from the State, you keep, in that community, \$800; \$7,200 goes to that student and it goes to the charter school. Well, I'm confused here because when that 1, 2, 3, or how many students leave, whether it's 5% or 10% depending on how big your school is, I don't think the costs in your school system have gone down. You still have to pay all your salaries. You still have to pay your health care. The lights

still need to go on. You still need to heat your school. Again, your communities, wherever these charters show up, will be losing funds.

I'm going to end by saying this, I think the good Chair and I both care about students. I think our entire committee cares about students. Do I think that if charters come to fruition the State is going to go in reverse, it's going to go backwards, and we're going to be devastated? No. I just don't think that folks in our communities truly understand what is going to happen. I don't really think that people in this Body truly understand the entire implications of this bill. After 3 years, that 5% of that class and 10% of that class, those restrictions come off. That fourth year, instead of maybe only a trickle of students going to a charter school, it's now open games. Some might say that's going to drive competition, that's good. Well, just remember the results from around the country. Under 20% of all charter schools in this country performed better than our public schools, 46% were equal to our public schools, and 37% do worse. Thank you, Mr. President.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, today we have the opportunity to take a step forward in education by passing L.D. 1553. I'd like to start off my remarks by just saying that we will always have challenges in education and we must face them head on with resilience. However, we may not always agree on what the best way is to get there. While this may be the case, I know that everyone in this Body wants, truly, to have no child left behind in Maine. I think that's the goal of the Education Committee and I think that that's the goal of every person not only in this Body, but the other as well. This bill, I believe, will add another tool to the workbench of the Department of Education. We all know that while one size fits all is great for a baseball hat, it's not so great for a choice for fit for education. I want to emphasize that traditional public schools are great for most Maine children. They work. This bill is not about them. This bill is about the thousands of Maine children who are not quite getting what they need. That's of no fault of the Department of Education. That's of no fault of our public schools across the state. It's just a fact of life, that you can't pound a square peg into a round hole. Sometimes we have some square pegs that need a little bit of help.

I'm from Androscoggin County and I represent everything outside of Lewiston/Auburn. I represent a lot of the rural area of my county. One of the reasons for this bill is so we can create schools of focus. We can have a school that focuses on STME; science, technology, mathematics, and etcetera. We can have a school that focuses on agriculture. We can have a school that focuses on performing arts. I think a great example of what would work really great where I'm from is an agricultural school. I have a lot of apple growers in my district. We have apple orchards everywhere, from Lisbon all the way up to Turner and down through Minot. We have apple orchards everywhere. A lot of the kids that go to, I'll use one of my high schools, Leavitt Area High School in Turner have family farms. They have no intention of going to college. That's okay because they want to take over their family's business. They want to run the apple orchard. Knowing that, why don't we leave them where they are? Why don't we teach them how to be the best farmers that they can possibly be and take over their parent's business, make a lot of

money doing it, and be successful for the rest of their lives? That's what a charter school can help do; create an area of focus in a specified need in an area. That's the only way a charter school can open, if there is a specified need. Can we turn Leavitt Area High School into a charter school? No, because we wouldn't be able to meet the needs of the majority of the students that go to school there right now. They need a college preparatory school that will help the majority of the students there get ready for college.

This bill will expand choice for students, parents, teachers, and school districts when evaluating a child's education. I can't stress that enough. You can't pound a square peg into a round hole. We've got to help these kids where they are and I think charter schools are a great way to do that. Another thing I want to address is the fact that charter school legislation will give some of our rural communities options for their existing schools. One of the towns in my district is Wales and they just voted to shut down their K-2 elementary school. I know that there are a lot of my constituents in that area that really hated to see that happen because that was part of the reason that they moved to Wales, so that they could have that community focused education. They were really upset about that. I'm sure we all have communities that have school districts that are thinking about closing down one of their schools. This bill would give them an option to help keep that school open. I'm sure there are communities out there that are teetering with one family in their town, "I'm hoping the Johnsons don't leave because if they do the school's going to shut down." Charter school legislation will hand them a 5 year lifeline. They can apply to convert to a charter and keep that school open, hopefully find some efficiencies in their school district, and maybe keep that school open for the long haul. Charter schools will also help us compete in the Race for the Top and new revenue streams for federal grants. Also school districts are authorized in this legislation to create intensified charter programs within their school district that empowers the local school board to do that.

I'd just like to address a couple of concerns that the Senator from Cumberland addressed. I will stress again the fact that public schools are doing well in Maine. Nobody is debating that. We have a great public school system. This is an additional tool to help us do even better. No one is saying that this legislation is a silver bullet. It's not. The subject of special education was brought up. In the bill the charter school has to include provisions for special education students. It's part of the rules. As much as I appreciate the simplification of the charter school application process, it's not that easy. In the bill there are 10 pages of requirements that that group of parents need to meet before they can open a charter school, before they can even apply to open a charter school. I would also note that this bill has a 10 year provisional period, that that all powerful chartering institution is only allowed to open 10 schools. The bulk of this will be focused on the local school districts who can decide to open a charter school or not. Of course the public funds follow the student to the public charter school. I'll say it again, this is a public charter school. Everyone's welcome. No one can be turned away, unless there's no room to hold them, just like we do right now. I would note that just as recently as a month ago in my county there was a lottery held for the lower grade levels at some of the Lewiston elementary schools. This isn't a foreign concept. I think most importantly of all is that our constituents want it, all over the state. A recent poll conducted by PanAtlantic in May of 2011, last month, said that 69% of Republicans, 65% of Independents and

63% of Democrats are in favor of charter school legislation; 65% across the state. People of Maine want this.

Just to recap, charter schools are innovative new public schools. Public schools. Not private. No religious affiliation, as some claim. They are free to all students. There is no tuition charged. They are voluntary. They will only open when and where there is a need. There has to be a need met for a charter school to open. I'd also like to address the fact that these schools, I've heard a lot in the halls about this bill, are elitist schools for the rich. Unless the public school system is for elitists then I don't think that these schools will be for elitists. Once again, everyone is welcome. Mr. President, I would strongly urge the members of this Body to support this bill. It's good for parents. It's good for students. It's good for school districts. It's good for Maine. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first, I'm very glad that my colleague from Cumberland, Senator Alford, brought up the issue of the public hearing, which I think is really important. I believe in process and a good thorough vetting of an issue. Unfortunately, because of the timing of another piece of legislation, there were only two legislators present during this public hearing, which I think is a tremendous problem right away. I want to make sure that people understand, when a room is filled with people, and there are only two legislators present, it doesn't get that vetting that it really needs, especially when one of the legislators present is the sponsor of the bill. I really don't have much of a problem with charter schools except for the fact that they are promoted in a number of ways. They are promoted as sort of this panacea. This, you know, fix it for our public schools, failing to help every child. I don't believe that this is the case. In fact, when people have lobbied me in favor of charter schools, what I've said to them is that we have an alternative school mechanism right now. Have you gone to your local school board meetings and engaged them in a dialogue about having an alternative school program right within the school system? Not once have they done that. I wondered if maybe if they put the same energy and effort into an alternative school program within the current structure of our public schools if they might have gotten a good result? They didn't even try. It's like they are so set on this one sort of mechanism that they cannot see potentially working with the current schools so that they don't create new infrastructure, they don't create a lot of duplication, it's more efficient, it's more cost effective, and the public schools don't get drained. They've never really looked into that as a possibility. That's another issue I have with this piece of legislation.

I did find it really interesting, though, when a professor at the University of Southern Maine mentioned a number of really interesting things about charter schools which hadn't really occurred to me. One of them is that it's taxpayer money going to an entity that has no sunshine, no financial accountability, and does not have to adhere to the norm that public schools have to adhere to. I find that really interesting because that's a grave concern of mine, that there is accountability. The other component is the one that when I hear of polls on things. I tell you, you change one word in a poll. I went to a conference, they said if you change one word in a poll and you get a totally different result. I think if we asked the schools in our local

districts if they had a charter school come into their local districts without their having any part, any role, in determining whether or not that charter school could be there and that charter school siphoned off school students from their public school, making their public school that much more difficult to function, would they support it. I can promise you that they would not. I get, right now, in my district, especially in the southern tier of my Senate district, communities coming to me complaining about the fact that they lose students to John Bapst in Bangor because every student counts because of the reduction in school population. Many of our towns are, basically, on the teeter-totter of being able to maintain their current programs. When we talk about this additional entity coming in and potentially pulling away student population, will that impact our public schools? I would say that it will definitely impact our public schools in the programs that they will be able to have. It may actually do exactly the opposite of the intent of this law, which is to increase the type of educational programming that we're providing and heighten the educational opportunities for students. It may actually have the opposite of that. The reason that it may have the opposite effect is that, while they pull away students to the charter school, the public schools have more and more difficulty maintaining their programs, they fall further and further behind on their programs, and so they are actually not doing as well as they would if they didn't have the charter school siphoning off their student population. That is another massive concern.

The other issue is that, because of the way that this is structured where there is an alternate authorizer, another authorizer, they have no accountability to the groups and the local towns. None. They can do what they want. There is no provision that says that the towns have an input. They can skirt the locals and go to this new authorizer and get what they want. In addition, the notion of a public school charter is really interesting because I'm not at all convinced that, under this piece of legislation, some outside corporation could not come in and sign up for the 10 schools and be a corporate entity that is managing these public school dollars, our taxpayer dollars. There is a whole lot. This is a huge, huge, bill that really could have exactly the opposite intent of the goal. I would submit, once again, that if we fund it and we focus on it instead of trying to find other solutions for issues that we have, whether it's children staying in school or not being able to do as much with different learning issues than we would like, and if we funded our public schools the way we are supposed to be funding them, if we gave teachers additional professional development, all of these things would disappear, these problems, because we would be able to address the needs of every single child effectively. The complaints of people who want these charter schools would evaporate. We keep trying to focus on where, where, where is the answer when the answer is right here. It's right before us. We're just ignoring it because we don't want to pay the money to the public schools that we were told, mandated, by the people of the state of Maine to pay. I submit that charter schools are not the be all and end all. They are not the answer. The answer is funding our public schools, working with alternative educational opportunities right within the current structure so we're not doing duplication, and allowing our teachers to get the proper professional development that they need for reinvigorating themselves and learning more so that they can do more and have more tools in their toolbox. To me, they are more important so they can serve all of the children in the state of Maine, not just the ones in the charter schools. I think that's what we need to focus

in on. I'm against the pending motion for all of those reasons I've listed and probably a lot more. At least for the moment, I'll sit in my seat and I appreciate your time. Thank you.

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

Senator  **CRAVEN:** Thank you Mr. President. I have several questions that I would like to pose through the Chair.

**THE PRESIDENT:** The Senator may pose her questions.

Senator  **CRAVEN:** Thank you Mr. President. The first question is, as our public education dollars shrink and our student population shrinks as well, why do we want to build more new schools? That's the first question. I've never spent any time on the Education Committee, so I would like to know why charter schools are different or better because nobody's ever explained that to me. Also, are charter schools held to the same standards that our public schools are held to? Thank you, Mr. President.

**THE PRESIDENT:** The Senator from Androscoggin, Senator Craven poses several questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator  **MASON:** Thank you Mr. President. I will attempt to answer some of those questions. Yes, the charter school is held to the same standards as far as educational programming goes as the public schools. They are held to the learning results and whatnot. I'd also like to point out that we are not building new public schools. The State is not building any schools. The chartering institution is responsible for securing their own funding and building their own facility. The other option that these schools might be able to have is the fact that they will have first right of refusal on buildings that may be given up by a school department that they are trying to enter into. As far as the reasons to support, if the Senator from Androscoggin would like to sit down with me I would be happy to help with that.

Mr. President, if I may continue. I would also like to respond to a few other questions that were brought up by the Senator from Penobscot, Senator Schneider. The question was asked about public involvement. I would submit that there is public involvement in this bill. There are multiple public hearings listed throughout the document. It's just not in the traditional manner that we're all used to. I would submit that the ultimate day of reckoning comes at renewal time, when they have to prove that they've done what they said they would do in the charter school. If they haven't, their charter will not be renewed. If they have and they have exceeded expectations, they might get renewed for a lot longer

I was so glad that this question got brought up. The fact of why can't we do these things in our existing public schools. You know, when you first get to Augusta, I speak as a freshman here, you think, "Oh, that's a great idea." Especially on the Education Committee, you see all these bills and they all come up to you and you're like, "Oh, that seems very sensible, that's a great idea." What we don't realize sometimes, and something that I learned this year, is the fact that we are usually passing a mandate down to our public schools. It was funny because, in the timing of this bill coming up on the calendar, I happened to receive a list from the Western Maine Superintendents of things.

I'll read the title. It's the "No Brains List". It's a list of regulations that have been passed down from here that they have to meet. Green cleaning list. The chemical inventories and chemical officer's list. This is one of their suggestions. Allow the SAU to share chemical officers. They are not even allowed to share chemical officers. It's a mandate we passed down. This year in our committee, off the top of my head, we have required, or attempted to require, that we ask every student, as a requirement for graduation, that they fill out a FAME form. Not a bad idea, but it's another mandate and it takes more time out of the day.

**THE PRESIDENT:** For what purpose does the Senator from Penobscot rise?

Senator **SCHNEIDER:** Thank you Mr. President. I'd like to make an inquiry about how this is relevant to the current motion?

**THE PRESIDENT:** The Senator may respond.

Senator **MASON:** Thank you Mr. President. The point that I'm trying to make, and I guess I'll wrap it up, was that the reason we cannot do these things in public schools, the question that was posed through the Senator's statement, is the fact that we have burdened our public schools with requirements. These charter schools will be exempt from a lot of these, except for those educational regulations, and those involving health, safety, and civil rights. That was the point of my statement. I will end my comments there, Mr. President. Thank you for the time and extended point.

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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.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, first of all I'd just want to start off with the aspect that I keep hearing no child left behind. I've had an awful lot of my constituents say that that is actually an oxy-moron for every child left behind because, basically, it's an underfunded educational system, both in the State, where we only supply 46% of the funding versus the 55% that we promised, and in the federal government only paying about 50% of the special ed funding, which is the reason why we can't do half of what we'd like to do. I could actually probably say I was kind of undecided on this issue, but after listening to some of the things I have a better idea of where I'm headed. The good Senator from Androscoggin talked about the ability to teach apple farming to a student whose parents own an apple orchard so they could maintain the family business, which I think is a good, laudable idea. Listening to the Senator from Penobscot, I think

she actually hit it on the head. Some private company may be buying up the 10 charter schools for their own purpose. I can actually envision this now more than ever. Why? Because I think the need for charter schools will resonate in Androscoggin, York, and Washington Counties because they will help educate slot machine techs, dealers, pit bosses, and casino managers because I can really see the need for this in the future because, where we don't have these already in our educational system, I think these can be the feeders for the university systems, which I'm sure will have Masters in these topic subjects. Really, I mean, where is the economic development coming from the state of Maine? It's actually Ocean Properties and Hollywood Slots. From that standpoint, I will be voting in opposition to this because I think we've got to look at economic development and education in the same manner and this isn't the way to go. Thank you, Mr. President.

**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 wasn't feeling very uncomfortable until the other good Senator from Androscoggin stood. Really, it sounds to me like our health, safety, civil rights, and other kinds of freedoms are in peril in our new initiative here. Also I am really troubled because on the one hand I was told, as I asked my questions, that charter schools had the same requirements as public schools and then, in a few statements later, that they were not. That bothers me as well. Really, I had my light on originally for a follow up question. I wanted to know whether there was any inquiries were made about specific impacts on public schools, for example in Massachusetts or other states that has had charter schools for quite a few years. I would like to know that because we often look to other states to see how legislation worked there or how it doesn't work there. I would really like to know how the charter school system is working in Massachusetts regarding the impact on their public schools.

**THE PRESIDENT PRO TEM:** The Senator from Androscoggin, Senator Craven poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Mason.

Senator **MASON:** Thank you Mr. President. I will answer those questions. There are thousands of kids on the waiting list for charter schools in Massachusetts. Also, I just wanted to make it very clear that these charter schools are required to follow educational regulations, health and safety regulations, and civil rights regulations. I wanted to make it very clear that they are required to follow those.

**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, you know, the Maine Constitution specifically points out how important education is to our state. If you look at Article 8, Part 1, it states that a general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people. To promote this important object, the Legislature are authorized, and it shall be their duty, to require that several towns make suitable provisions at their own expense



for the support and maintenance of public schools. If you believe that as a society public institutions are important and that we are supposed to collectively come together and pool our resources to educate and raise our children then you support public education. Charter schools, in my mind, a public charter school is somewhat of an oxy-moron. I think we need to hold true to the Constitution, properly fund public schools, and not buy into this idea that everything private is better or everything deregulated is better. Public institutions are important to a civil society, so I urge you to defeat the pending motion.

**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, first I'd like to pose a question and then continue my remarks after the answer, or if an answer does not occur.

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

Senator **SULLIVAN:** Thank you Mr. President. My question would be, under the new proposal in front of us, would it also provide for public transportation to the schools? Public schools, transportation is part of that. Would transportation be provided?

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

Senator **SULLIVAN:** Thank you Mr. President. This may surprise many people in the room, but I am inclined to vote for this charter school Ought to Pass Report. I don't do that lightly. I am a firm believer that children all learn differently. For some students large schools are great. For many students the idea, in middle school where I'm most familiar with, of smaller teams, breaking them up. Four or five teachers knowing the students better than just picking one out. In my school we have about 400 students to a grade level. I have only 130 that I need to worry about, 100 actually. We're able to meet and talk about them and all. For some in a class of 26, which was my average class size, some kids get lost. There are some kids that would do much better not traveling from class to class and actually stay within one classroom and develop a bonding with just one teacher. There are lots of things. Not one size fits all. I have really thought about this and I have always been in opposition to charter schools. Until I have an answer on whether or not we will continue to provide transportation to charter school students in a community, I cannot support it. Why? Very simple, we then do become elitist. Only the parents that are available to take their children back and forth to a school will have to opportunity to attend. There are good things about charter schools and the more research I have done, and sort of been forced to do in some cases and have enjoyed doing in some cases, probably the forced wins out, I have seen things that would work for certain kids. That's great. Things that will really work for maybe those kids whose parents don't consider education a priority. That was not true my family and it's not probably true for many of you sitting here. If it's not a priority do you really think those kids are going to be able to attend a charter school if there's no transportation provided? We talk about the rural schools. That's a great place

for charter schools. It's more of a Montessori type thing where you take the children where they are at. Montessori schools have been around for a long time and they are very effective for some students. They are not effective for others. Charter schools could be very effective. Take away public transportation to those schools and you no longer have public anything. You have a school or an institution or organization that can provide for children as long as the parents are able to provide transportation, not be involved in work and have a way to transport kids to school. This hurts because I have told many people I will be supporting charter schools. I believe the time has come to look at them, but if we are not guaranteed that every child will have a chance to attend and be provided that transportation to it. When I say every child have a chance to attend, I understand there maybe a lottery. That's what they do. They just had a big thing on the news maybe a week ago about actually drawing. Some kids out of a family, one kid gets to go and the other two don't. That's part of the lottery of the school and that's fine. You need transportation. I'm afraid I'm going to have to vote no unless somebody can get me that answer real quickly, between now and the way we're talking and I'm adding to the problem. We may be here until 7 tonight and I might have that answer and then my vote will change. I really do want to vote for this, but it's got to have transportation. Thank you.

**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 had asked a question earlier and that was about the impact on public schools in Massachusetts. The answer I got was how the charter schools are faring. That wasn't my question. Actually, what's happening in Massachusetts is that the charter schools are doing fine. They are hovering up all of the high functioning students and students who have resources and leaving the marginalized students and families in the public schools. They are definitely chipping away at the public school system. There are a lot of students that the charter schools do not want to serve and do not want to provide education to and won't. I wanted to just clarify my question, the question that was asked and not the question that was answered. Thank you.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. I'd like to answer the question from the good Senator from York, Senator Sullivan. The answer to the transportation issue is in number 3, powers of public charter schools. It is Part D, a public charter school must have a plan that describes how the school will meet the transportation needs of its students.

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

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

Senator **ALFOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'll make this very quick. Two quick points. Yes, the Senator from Androscoggin, Senator Snowe-Mello, did mention the transportation piece, but it's a plan. Plans don't have to actually get funded and plans don't have to be implemented. It's a nice statement to cover the tracks of charter schools, but it doesn't mean that they actually will implement any sort of transportation plan because what happens if they open in a rural school, rural community, and they start drawing from 8 or 9 different towns and those towns happens to be 60 or 70 miles apart from each other. It will just crush this charter school just for transportation costs. Yes, the money follows the student, but these charter schools are going to be challenged just to pay all the costs. I know this from experience because Casco Bay High School started as an innovative school. Everyone was so excited in the city of Portland because we got \$600,000 from the Gates Foundation. They had a school building and it was going to be wonderful, like all of that would cover their costs. Well, it didn't cover their costs year one. It didn't cover their costs year two. They didn't cover their costs year three. One of proponents of this bill says we can bring in federal money and there is so much federal money. As soon as that federal money left Casco Bay High School, which was really a grant and not federal money, now the town of Portland has had to pick up the entire cost. I think the taxpayers didn't quite realize that when they decided to move ahead with Casco Bay High School. I'm glad we moved ahead because it's a great innovative public school within our public school system. We allow teachers to innovate. We allow administrators to innovate. We allow students to go there and we've got a great school.

Let me go to my second point, which is that in the original bill in the 124<sup>th</sup> we actually had a very long discussion. We made it a very important public policy about teacher certification. In this bill what we will be adopting, if we pass this, is that a charter school, for 3 years, could possibly have zero Maine certified teachers. Not 1%, not 10%, they could open up their school with zero certified Maine teachers. How does that happen? In this legislation they say if you have expertise in a profession, if you have a Ph.D., or you might be from another state, you can come into the state of Maine and teach at our charter schools and not be certified. That can happen for 3 years. After 3 years, if you haven't met one of the exemptions, then you have to become certified. I think that's a major difference. I appreciate the good Senator from Androscoggin, Senator Mason, talking about the similarities between our public schools and our charter schools. This is a major difference. It's also that the 3 years is an interesting time line. If you look at the most successful charter schools around the country, most teachers only stay there for 3 years. In fact, in most public schools, they only stay there for very few years also because they are low paid. They usually don't get many benefits. After 3 years, most teachers leave charter schools. It's very interesting that we could just have this revolving door of teachers coming in that aren't certified in our 10 charter schools and teaching our students with very little accountability. That concerns me and I think that's a major difference between what we tried to do in the 124<sup>th</sup> and what we're looking at passing now, in the 125<sup>th</sup>. Thank you, Mr. President.

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

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**THE PRESIDENT PRO TEM**: The pending question before the Senate is Adoption of Committee Amendment "A" (S-301). 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 (#240)**

**YEAS:** Senators: BRANNIGAN, COLLINS, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

**NAYS:** Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SHERMAN

**EXCUSED:** Senator: GOODALL

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, Committee Amendment "A" (S-301) **ADOPTED**.

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 York, Senator Sullivan.

Senator **SULLIVAN**: Thank you Mr. President. Men and women of the Senate, I just want you to know that I was whisked out of here by a very good looking man and stood out in the hall and had the answer to my question. There are at least two places, possibly three, in this plan where transportation must be provided along with lunch services, which gets us to some child who may be in, and without that they cannot be chartered. I am willing to accept that. Again, that's why my vote came in and people might have thought I was a little crazy. I did get that answer that I wanted and I also am supporting this because I believe it is one more answer to individual learning for children and what we need. I do not, in any way, fault public schools. I think, quite frankly, we do phenomenal jobs. I say we. I think I did a pretty good job when I was there too. My school system got its money's worth out of me. Having said that, we never reach perfect and we still miss children along the way, as much as we try. No one tries harder than public school teachers at very little thanks, either verbally or through the pay or through our retirement benefits.

However, I'm willing to go along with this. I know I've taken more time than I should have, but I wanted to explain it and I wanted to make sure I defended my public school teachers also in my vote. Thank you.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Passage to be Engrossed as Amended. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#241)**

YEAS: Senators: BRANNIGAN, COLLINS, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, WOODBURY, the PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SHERMAN

EXCUSED: Senator: GOODALL

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED.**

Send down for concurrence.

\_\_\_\_\_  
Senate at Ease.

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

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

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

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

**RECESSED** until 2:00 in the afternoon.

After Recess

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

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Off Record Remarks

**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 (6/6/11) Assigned matter:

SENATE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Restore Equity in Education Funding"

S.P. 395 L.D. 1274

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-240)** (8 members)

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

Tabled - June 6, 2011, by Senator **LANGLEY** of Hancock

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

(In Senate, June 6, 2011, Reports **READ.**)

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 Alfond.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, hopefully we all can sit in our seats and let lunch kind of settle a little bit and go onto a little journey of the essential programs and services formula, which is and defines the cost of education here in Maine. I am standing up in opposition of this bill and it's very hard to do so because the good Senator from Washington, Senator Raye, has very good intentions with this bill. This bill was brought before the Education Committee by the Senator from Washington because he believes there is inequity in the funding formula, especially in rural Maine. However, I would argue there's inequity all over the state. That is an underlying theme of my talk today, that before we start changing the essential programs and services formula we need to have an

independent review, one that the Education Committee has fully endorsed, and then look at a couple of things.

First, the essential programs and service formula has never been funded to 55%, thus we have no idea how this formula truly would work if it was fully funded. Let's look at this funding formula now that it has not been fully funded and start looking at issues that the good Senator from Washington is asking us to look at in this bill, which are smaller schools. Today we are not looking at the independent study. We're looking at a very direct bill and this direct bill is looking to move just over \$6 million from, essentially, schools that are over 1,200 students to those schools that are under 1,200 students. Now, no one could argue that the funding formula is that simple. Even my description there is oversimplified. I would like everyone to think about that this bill, and our vote today, is not a question of voting for rural Maine versus the rest of Maine, but the question should be should we be even touching the EPS formula at this time.

All of you should be receiving charts that I have done for every single Senator. These charts talk to you about every school in your district. What this attempts to do is look at what the Department of Education provided for us during the hearing on L.D. 1274. The first column talks about L.D. 1274 with \$19 million put into the funding formula. Why is \$19 million there? Because in the second year of the biennial budget the Governor has proposed to put \$19 million into General Purpose Aid. I am very glad that he did and I am fully supportive of that. That first column talks about what happens when this bill, and the changes imbedded in this bill, get combined with the \$19 million. You will see a number. If you have a couple of schools in your district, you'll see what happens when L.D. 1274, the changes with the \$19 million, happens. The next column is with no changes. We would use the current funding formula and the \$19 million comes into the formula and how the distribution works in that case. The third column shows the difference between the two. If you have a positive number, you see that if you look at the changes with the \$19 million, and that's a bigger number, then the no changes and \$19 million, then President Raye's bill would be a good thing for you. If that third column shows a negative then what has happened is that his proposed changes are not suiting your district very well. I, coming from the city of Portland, will actually be voting against this because what happens to the city of Portland is that we lose \$922,000. In fact, only seven Senators in this esteemed Body come up positive with President Raye's bill. That means every single school in your district benefits from these two changes to EPS. The other 28 of you either lose entirely, like myself or the good President Pro Tem who every single one of his schools lose and as many other Senators, with these changes, every single school would lose. Then there is also what the good Senator from Lincoln said, those caught in the middle or stuck in the middle. For those Senators, when you look at your sheet, you've got some schools that gain and some schools that lose.

My question to you all is, what are you going to do? For me it's very easy. My schools all lose under this proposal. For the Senators who have some districts that gain and some districts that lose, how are you going to go into your Senate District and to some of the schools that lose and say, "You know what, I voted for this bill because a couple other towns in my Senate District gained from it." I don't know how you are going to do it. The lights will show when the vote is taken, but I think this is a very, very difficult vote for many of you. For me, it's easy. I'm going to vote against it, not because I don't think the intentions of the good

President from Washington County aren't pure. I think he really wants to do what's right for rural Maine. I grew up in rural Maine and so I understand what it's like to be from a small town, Dexter, Maine with 3,000 or so residents. When you look at Dexter, Maine and some other rural towns, you actually see a wonderful story of how EPS is just pumping money into that community and many other communities. I end by saying that EPS is a very complicated formula. It's like a house of cards. You move one or two cards and everything else changes, sometimes insignificantly. I think the good President will say that this is an insignificant change, a small change, a couple of things, that we're just moving \$6.3 million around. With pink slips happening in all of our districts, I don't want to have to go back to my district and say, "You know what, in 2012 - 2013, when this would take place, the city of Portland, where every job is about \$50,000, would have to cut almost 20 positions. These 20 positions are going to go away because we are changing the funding formula mid-stream. I would ask the Body to let this independent study happen. Let's take a thorough review. We've never done that. I hope that you will join me in voting against the pending motion. 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 in strong support of the Education Committee's bi-partisan Ought to Pass as Amended Report. L.D. 1274 seeks to restore a measure of equity to school funding, recognizing that the flawed and bias EPS formula has pounded the square peg of rural Maine into the round hole of EPS for six devastating years. I well remember that the imposition of the EPS funding formula coincided with the infusion of \$250 million in new K-12 education funding. Believe it or not, because that one-quarter of a billion dollars in new funding coincided with the new EPS formula, the impact of that new funding, that massive infusion of funding, on Washington County was the loss of \$2 million. Let that sink in for a moment. At a time when we infused \$250 million of funding into the formula, the EPS formula caused my county to lose \$2 million. It was astounding. It was unbelievable. People were in shock. It was devastating. Devastating. Some of the poorest rural communities in the state. Elsewhere across rural Maine, similar hits. Losses in our small towns, dealing a painful blow to rural education and severely undermining the Maine tradition of ensuring that every child in Maine has access to a solid education, regardless of zip code. Because of EPS, zip codes suddenly became an issue for our rural towns all across the state.

The bill before us is by no means going to make rural Maine whole, but it does remove some of the worst, unfair, and offensive things in current law. For example, it removes the unfair and, I would submit, inexplicable provision that subjects benefit costs to the labor market index. There is no justification for that, something that the Department of Education has readily acknowledged in helping us to craft this. It adds a provision acknowledging the reality that our smallest districts can never achieve the economies of scale enjoyed by the state's largest districts. It cannot happen. It is impossible, but the EPS formula doesn't acknowledge that currently. Under this bill it will acknowledge it by reducing the staffing ratio, not the student - teacher ratio, simply the staffing ratio, to acknowledge that every school needs a lunch director, every school needs a bus driver, and every school needs a secretary. It will acknowledge it by

reducing that staffing ration by 10% for districts under 1,200 students. Lastly, it provides an additional minimum subsidy for communities that suffer the double whammy of being property rich but having a population that is poor. It does so in a very logical and fair way by looking at the population whose students qualify for free and reduced lunch at greater than the state average. It will be the one provision that really gets to the heart of something that has troubled, I think, all of us, no matter where we live in Maine; it's the ability to pay so it's more than just a factor of property value. If you have any towns in your district that are on the lake or riverfront or oceanfront, you know what I'm talking about. When the property values go through the roof, but your constituents aren't making any more money than they ever did. That's all it does, folks. Those three provisions. Very simple provisions. I don't think that there is anyone here that could argue with the logic or the fairness of any of the three of them. This is a modest proposal. It is accomplished in the context of an increase in K-12 funding in this biennium. Despite the protestations of the Senator from Portland, there are no losers. Everyone, every school district in this state, as a result of the combination of the budget and L.D. 1274, will receive at least the amount they receive now and almost all of them gain, even the city of Portland. Not as much as it does under the current flawed and bias and anti-rural EPS formula, I will grant that to the good Senator from Portland. You gain, but not as much as you do under the current formula, a formula that has been devastating rural Maine for the last five years as our more populace communities have benefited.

That's it. It's very simple. This is an issue, frankly, that over the last five years I believe has opened the divide between rural and urban in this state in the most unfortunate way. This doesn't reverse it. It merely takes a small portion of the increase in education funding to inject fairness into the formula. It is less than seven-tenths of 1% of the entire funding for state education that we are talking about here. It is miniscule in the overall picture of the EPS funding formula, but it is lifesaving for rural communities that have been so severely disadvantaged these past five years. I hope you will join with me in accepting the bipartisan Majority Ought to Pass as Amended Report.

**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, a few days ago I got up and I recited the number of businesses in my district that had closed. It was a long list and I didn't get them all. Those were only the forest product companies. My friend from Cumberland said he grew up in Dexter. Well, Dexter is next door to Ripley. We lost over 2,500 jobs at Dexter Shoe. We've lost job after job. With those job losses, our school districts, in order to make their budgets balance, and I was on the Dexter school district for a while, we've closed schools. We've cut teachers. We've cut all kinds of programs from our schools. Probably our cost per student is much, much less than almost all of the schools in the rest of Maine because we just don't have the money. Some of the poorest parts of Maine and yet every time we turn around there seems to be a new plan that takes money away from us and gives it to other schools. The Senate President talked about fairness. That's just exactly what this is about. My district probably got hurt as much as any district. It needs some of those funds. We've got kindergarten kids who are riding for hours and

hours on buses every day because we've closed their local schools. That's not right. We don't need these young children to be riding on buses on snowy and icy roads because we don't have the money to give them an education that's reasonably close to their home. This bill just begins to restore some of that funding. It doesn't replace it. I think of one school district in Guilford. They've closed all of their outlying schools and they continually operate for less than EPS says they should. They operate for less than EPS says is necessary to run a good school. Yet their test scores are as high as almost any you'll find. They do a good job. Yet we're going to cut them and we're going to cut them some more so that we can restore millions of dollars to some of the more urban schools. When you are thinking about urban and rural you could substitute poor for rural and you wouldn't be far from wrong. 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, the Senator from Washington, Senator Raye, really laid the case out for this. I was listening to two arguments. I listened to the Senator from Washington and I listened to the Senator from Cumberland, Senator Alford. The Senator from Cumberland just laid it on the table. This is all about self interest, he's telling us. You look at the numbers and if you're going to suffer than you vote no. You don't look at the merits of the bill. You don't look and see if this bill is correcting a wrong. Just look at the numbers and vote those numbers. Well, ladies and gentlemen of the Senate, I hope that is the not the way that we're going to produce public policy in this Body. Rural Maine has been hurt badly. It's not just Washington County. It's not just Somerset and Piscataquis Counties. I'm looking at a district, Lakes Region. Towns of Harrison, Bridgton, Naples, Casco, and Sebago. These are not wealthy towns. Those people that live in those towns are working people. The unemployment rate is high. Incomes are low. Once again, under this formula they have shorefront. I've told them over and over again, if we could pull the plug, if we could drain Sebago Lake, their problems would be solved. Can't do it. It's Portland's water supply, by the way. Couldn't do that. What has happened to this community of towns? They have lost all of their funding from the State with the exception of their special ed piece. They are now minimum receivers. They look at the communities surrounding Portland, those known to be quite wealthy, Falmouth and the Cape Elizabeth, and they see those towns receiving more funding for education than they do per student. They scratch their heads. I'm reading these articles in the newspaper every week, frustrated taxpayers saying we've got to do something, we're got to cut the school budget, we've got to bring our taxes down. They've got to do that because they receive no help whatsoever to speak of from the State of Maine to educate their children. President Raye outlined the policy decisions behind this. It makes eminent sense that the regional market area salary differential be not applied to benefits when the benefit, which is primarily health insurance, is exactly the same for every school district in the state. The Lakes Region school district is penalized. They pay as much for health insurance as Portland teachers do, but they are only given credit under the formula for the differential, at 92%, I'm not sure what the number is, but less than the full amount. What makes more sense? That's an error that has to be corrected. No one can argue with that unless you are just looking at the numbers, unless

you're just going to vote the numbers on that sheet and you are not going to look any further. These are good changes, as the President has pointed out. We are creating an urban - rural divide with this funding formula. The fact that you've got it now, does that mean that you will never look at it again? I've got mine. Is that the answer for not making and correcting a public policy? I would urge that you support this report. Thank you very much.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, President Raye was eloquent, but the quote of the year, to me, was delivered by Bimbo Look of Jonesport, a lobsterman and selectman, who, in support of this bill, said, "Folks, we have nothing left. We are down to melting our gold basketballs and selling them to pay for education." Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think everything's been said after that one. I hope I can add a little bit, if I may. Ditto to the labor market area. I say ditto to the essential programs and services. I say ditto to what school consolidation has done to us over the last six years. We knew it was going to happen. I would add two things. One, over the last six years over \$32 million slid out of Aroostook County. It almost equals what those seven or eight towns surrounding Portland would gain. However you part that, so to speak, it's gone. The other thing I'd add, I looked up the little memo here that was handed to us by the good Senator from Cumberland. When you look at rural areas, SAD 1 is around Presque Isle. Somewhere between 11,000 and 12,000 people. They lost money on this. That's 11,000 or 12,000 people in a city. If you look at the cities in the state of Maine, it's one of the larger ones. Just happened to be an island in a vast area of rolling plains. SAD 29, which is the Houlton area, with the school folks that are there, that's pretty close to 9,000 and 10,000 individuals. In a town, not hopping around the countryside. SAD 70 is now hooked up with Danforth, they are somewhere between 6,000 and 7,000 people. When you say rural, at least in Aroostook County, you mean islands. When I campaign I campaign around the Houlton area, which has about 11,000 and 12,000 people in it. You go to Presque Isle and you draw a circle around it, it's somewhere around 15,000 to 20,000. It's rural in the sense of a house here and a house there. There's not an accurate picture. Senator Jackson has Caribou and north; Ft. Kent, Madawaska, and those areas. They are rural in the sense that they are isolated from the rest of the state of Maine. Very close to Canada, by the way. When you say rural don't think of little houses here and there and a garden someplace else. You could pick one of those towns up and put it in York County or any county and it would look very familiar to what you live with. It's an isolation factor. If I took a survey of how many people had ever been north of the 45<sup>th</sup> parallel, which is half way to the center of Maine, around Lincoln. In the Western Promenade there's a great bronze statue there of some sort. I was reading not too long ago, a Civil War veteran. About 25 to 30 yards from that there's a monument that says 43<sup>rd</sup> parallel. The one in Aroostook County says 45<sup>th</sup> parallel. We're two degrees north. The folks in

this room, I don't blame you. You can go from South Portland to New York faster than we can get to John Martin's camp in Eagle Lake. We talk about rural areas, but there are cities surrounded by farm fields in our areas. I hope you keep that in mind. I agree with everything's that's been said prior to what is here and I hope you see that \$6 million in a \$6.1 billion budget is around that area somewhere and I bet we can find it in the road budget. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. I think it's fair to say that all of our schools need more money. Wherever you live in this state your schools are probably underfunded. We know they are under the state statute that requires us to be funding 55%. We all need more money. The way the EPS system currently works is that it is driven by two primary factors; one being valuation and the other being student population. As we go forward, if we pass this bill, what we are doing, in essence, is shifting money from school districts that are growing and giving that money to school districts that are shrinking. I recognize the challenges of rural Maine and the challenges, particularly, when you're dealing with declining populations. It's a very real issue. The way to deal with that is infuse more money into the system to get us to that 55% to more adequately fund our essential programs and services. Simply dealing with it by shifting money from places that are growing with more and more students with more and more demands will just trade one problem for another. If we're serious about this issue, let's take a hard look and figure out where to come up with the resources so that everybody is getting a fair and reasonable funding and a fair and reasonable education. We're going to be talking about the budget soon. There are some benefits in that budget for education, but we certainly don't get to the 55%. Different choices were made. If we're serious, let's infuse the amount of money that is needed to make sure that every child in the state gets a good education instead of just moving money from one district to another. Thank you, Mr. President.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, let's talk about rural Maine and let's talk about the State support in rural Maine. I did some review of some of the schools in Washington County. Calais, which has 622 students, gets over \$4.4 million from the State of Maine, which is 80% of their entire school budget that is funded by the State of Maine. It works out to over \$7,000 per student is funded by the State of Maine. That's a nice number. I'm sure many of you know what your number is in your communities and it's a lot less. Let's go to Dennysville, a little beautiful town with 66 students. They get just under \$450,000, which is also 80% of their entire education. That's \$6,700 per student. Let's talk about the big bad school districts in Southern Maine. We're the evildoers, apparently, by this bill and by the EPS formula. Falmouth has 2,145 students. They also get \$4.8 million, which is 24% of what it costs their school. That's \$2,277 per student. Let me remind you that Calais gets \$7,710 per student. Falmouth gets \$2,277. Machias has 431 students. They get \$1.3 million, which is 61% of their funding that they need to cover their cost of education. Their

cost per student is just over \$3,000. Let's go to the city of Portland, with 6,950 students. We get \$12 million from the State of Maine, which is 17% of what it costs our education system under EPS and that works out to \$1,745 per student.

Folks, we're talking across the state, this formula hurts everyone. It's not a conversation about rural Maine or urban Maine. You look at those numbers. Let's go to Dexter, where I grew up. Let's talk about how much money is being poured into the education system. In 2004-2005, they got \$5.2 million. In 2005-2006, when EPS was fully implemented with over \$250 million, \$5.3 million. In 2006-2007, \$5.7 million. In 2007-2008, \$6.2 million. In 2008-2009, \$6.5 million. They, between 2004 and 2009, received \$1.3 million more. Am I happy for Dexter? Sure, I think that's great. Do I think the EPS formula is perfect? No, but this is not a question of somehow doing what's right because the EPS formula somehow has it out for rural Maine. The reason that Eastport has lost that much money, I'll tell you why Eastport has lost that much money, is in 2004-2005 they had in their school system 219 students. Let's look to today. They 130 students. They have lost \$400,000 in that entire time. They should have lost a lot more. You know why they didn't? Because we already protect rural Maine. In the funding formula we have over \$5 million that goes to isolated schools. Why? Because we want to ensure that schools like Eastport and other school districts that are losing lots and lots of students don't get hit as hard. We also put \$20 million into EPS for declining enrollment. Why? Because we want to take care of all students.

The EPS doesn't care what your zip code is. It doesn't care where you are. It's 63 or 64 variables that you plug in, and when your valuation doubles like Eastport has done and your enrollment goes down by that many students, something is not going to happen good for you. It's just a matter of the EPS formula. Again, if we want to step back from this bill and do an independent study of EPS, let's do that. The fact of the matter is that districts across the state are making decisions for next Fall and then in February a new 279 goes out to every single school district, letting them know what's going to happen in 2012-2013. In less than six months we, here, will do something that has never been done. The EPS formula has never been influenced by a legislator to this point. Whether it's Senator Alford or President Raye, no one has been able to get inside the formula. Why? Because before the formula it was all politics. It was about where your zip code was. It was who you knew on Appropriations. It was dirty. Now we have found a formula that gets that out of the way. It was decided that, you know what, we're going to look at two major variables, valuation and student count, and then 61 or 62 others. When that formula kicks out what you receive, we've got all kinds of soft little cushions for those declining schools and for those isolated small schools. I can't argue enough that some in this Body will look at their numbers and they will say, "You know what, I'm going to vote for this."

Nowhere in this bill have we talked about quality of education in any of this. Should \$6.3 million go to these schools because of their quality of education? I don't know. That wasn't part of the bill. It just said that we've got two things that we have figured out, after working very hard with the DOE, that we think are small enough that they won't hurt the rest of the state of Maine. It will hurt the rest of the state of Maine and all of you have sheets in front of you that show that only seven of you benefit from these changes. Yes, \$19 million comes into it. Yes, the city of Portland would get money with the \$19 million and these changes. Folks, that's not what this is about. Let's talk about quality of education.

Let's talk about results and what's happening in our schools and then start making some decisions on how we fund our schools. That's not what this does. This corrects lots of myths. This tries to go after what everyone thinks is happening to rural Maine. That's not true. Not in every rural part of the state this is true. We've seen that. Look at good old Dexter, Maine. Dexter has benefited wildly from this. Eastport, Maine should be in a whole of trouble if we didn't have this formula. This formula has saved a lot of what is in Eastport. When you lose 40% of your student body. How many of you have lost 40% of your student body? Forty per cent of Eastport's population is no longer there, yet they've only lost \$400,000. That's pretty remarkable. Their valuation has doubled. If any of your districts had doubled, and you'd lost 40% of your school population, you would be in a situation that you'd find troubling, you'd be very upset, but you'd be thankful that there are already cushions within the EPS to help you out. Thank you, Mr. President. I urge the entire Body, please, to vote against the pending motion.

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

Senator **HASTINGS:** Thank you Mr. President. I hesitate to rise twice, but I will. I heard about soft little cushions. I heard about good old Dexter and how well they have fared. What I didn't hear a word from, I don't have the numbers in front of me, what about good old Lakes Region, those towns in the community? I guess they are communities that we don't need to worry about. Prior to L.D. 1, which I think was the first bill many of us in our fourth term has ever voted on perhaps, the Lakes Region school district received something over \$4 million. I've got this chart in front of me. I can tell you what's going to happen now. Under current law, without the \$19 million, RSU 61 will receive \$834,000. It hasn't shrunk. It hasn't dramatically shrunk or grown. I'd like to know what that percentage is, but it's small. I would be happy if this district would even approach the percentage of State aid that Portland does for its education programs. Well, great. What are we worried about? There are \$19 million of additional money coming into the system. What happens to good old RSU 61 in Lakes Region? They receive exactly the same amount of money that they would receive without the new \$19 million; \$834,133.10. Not one additional dollar of State funding. Tell me, ladies and gentlemen, that this system is not broken, at least in respect to the Lakes Region school district. Tell me that that is a wealthy district that can afford its own way when it's got an unemployment rate approaching 10%, when it's full of people making relatively low incomes, and high school free school lunch program. All of the factors. That's really where the perfect storm happened in this state. Right there. It wasn't up in Washington County. It wasn't up in Somerset County. It was right outside of Portland. Ladies and gentlemen, to say that the good old rural towns have fared just fine under essential programs and services doesn't apply to poor old RSU 61. I urge your support to at least give some small modicum of assistance to that district. Thank you very much.

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

Senator **RAYE:** Thank you Mr. President. Let me say that I'm always deeply touched by the Senator from Cumberland's expressions of concern for rural Maine. I believe that the Senator

actually made part of our case for us here when he referenced the stunning decline that has been experienced across much of rural Maine in a rather dismissive way to simply suggest that means they should get less money. Let's talk about what it really means. Mr. President, what it really means is the loss of jobs, the loss of families, and the destruction of rural communities all across rural Maine. Ironically, the good Senator referenced Eastport. Well Eastport is not actually one of the bigger losers. Imagine that. Eastport has only lost about 40% of their funding since EPS went in. That seems to be the same as the loss of our student population. We've lost that, that's true. Let's talk about some other losses. Let's talk about the town of Jonesport, a modest fishing village on the coast where most of the children qualify for free and reduced lunch. When EPS came in Jonesport got \$517,752 a year, over half a million. Today \$23,000, a reduction of 95.4%. Let's look at Greenville. The year prior to EPS coming in Greenville received \$558,907. Today it's \$113,000, a loss of 79.7%. Let's look at Damariscotta. The year before EPS came in Damariscotta received \$667,234. Today \$154,000, a loss of 76.8%. Before you say well they probably lost students, I have in front of me a municipality in Cumberland County that lost students over that period of time, but they gained over \$1 million in EPS, an increase of 116.5%. Still we have people standing on the floor of this Senate and saying that this is fair, this is how the numbers work out. I think that is appalling.

We heard the Senator from Portland talk about Calais, which, as you know of course, is one of the wealthiest communities in the state. Not. We were given a figure per student. How convenient. Calais happens to be the center for vocational education, so the funding for vocational education for the entire half of the county is run through the Calais school system, as is a children's project. The Calais Children's Project, which takes troubled youngsters from all over the state, from Kittery to Fort Kent, and they come to Calais for this program. These are intensely troubled youngsters who have been sexually abused or are sexual abusers or have criminal problems, or mental health issues. The facility for them is in Calais. The funding runs through. That is turned on its head to suggest that the city of Calais is swimming in money in some unfair funding formula. It's outrageous. I would invite anybody in this Chamber to come to Washington County, come to Calais, and walk through the schools and see what those magnificent teachers are doing for those wonderful kids. You tell me that somehow it's opulent or unfair. It's ridiculous on the face of it.

I would point out, and I know that the Senator from Cumberland has circulated some little graphs showing you part of the story, no district is going to have less funding than it does today as a result of this bill. Not a single district. Forty-one million dollars in new money going into this biennium and we're talking about taking \$6 million of it to try to inject some fairness. Remember, in the entire universe of school funding, it's less than seven-tenth of 1% to inject a little equity. No matter what district you represent, you're going to have more funding for your schools than you do today, even with the passage of this bill. Now, if you were representing the city of Portland, I could see where you might have some concerns because currently, under the flawed anti-rural unfair EPS formula, guess what? The increase for the city of Portland, absent this change that we're considering today, they are going to get a 10% increase under the current EPS model. From the \$19 million in the entire state, they are going to get over \$1.4 million of it. Boy, I guess if I represented Portland I could certainly understand that the Senator is doing his job. I

understand that. It's what he was elected to do for his constituents. I honor that. What I don't honor is the attempt to misconstrue the impact and the intent of this legislation. Even with this legislation, the city of Portland is still going to get a 4% increase. That's what most of us are delighted to be getting. Somehow it's turned on its head that anything less than a 10% increase is bad. Nothing else parallels it in the entire state if you look at these numbers. The only other district that even touches it is the district of the Senator from South Portland, Cape Elizabeth, and Scarborough. They actually receive, under the current model, a 15% increase. Even under this model, even with these changes, they would still get a 6% increase. Nobody is going to see a reduction in school funding for their district as a result of this action. Remember, it's just those three simple policy pieces we talked about. Consider them. As the Senator from Oxford, Senator Hastings, said, it's very difficult. I have not heard an argument why any of the three of those would not be the right thing to do except for the fact that one or two districts in the state stand to receive an enormous benefit, as they have enjoyed for the last six years at the expense of rural Maine. We're talking about less than seven-tenths of 1% of school funding to level the playing field in such a way that rural Maine will not be remaining so disadvantaged. I hope that you will consider the children, the quality of education, equity in education, and one Maine, and join me in supporting the Ought to Pass as Amended bi-partisan Majority Report. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. First, I'm struck by the energy the President and I are putting into this. I hope you guys are enjoying yourselves because I certainly am. It's always good to have a great conversation about education and about students. Yes, we are talking about students. Yes, we are talking about EPS that affects the entire state. Again, if we had a little tape recorder, I started off by saying EPS is a formula that I don't think many people in the state really like. Everyone thinks it doesn't work for their part of their district or their part of the state. Everyone feels like it is anti-urban, it's anti-rural, it's anti-Western Maine, it's anti-Eastern Maine. Everyone gets frustrated by the funding formula. In my mind that means it kind of works because no one's entirely happy. The reason that Calais, which is not a wealthy community, gets 80% State funding from the State of Maine is because it needs it and I'm happy for that. The reason Portland gets 17% from the State of Maine is because we also need that 17%. This change the good President is suggesting is permanent. This isn't just a one time thing. This will be in the funding formula until someone decides to change it, or decides to change something else, which, again, has never happened in this Body. Never has an individual legislator gone in and changed the funding formula. Why? Because the DOE and those who designed the funding formula said, "If we are going to change it, we're going to do a lot of work. We're going to do a lot of research. We're going to understand what the consequences would be." With all due respect, a lot of what the good Senator from Washington, President Raye, was reading off this sheet is cherry picked. It uses distinct timeframes. It goes from 2004 to 2009, exactly when valuation was going gang busters in Southern Maine and really wasn't having much effect in Washington County



and Northern Maine. Now what's happened is the opposite is true. The Boston Market has slowed down Southern Maine and our valuations have slowed down. Washington County and Aroostook County are still seeing double digit valuation gains. A change like this can't be put into sound bites. It really can't even be put into graphs or even numbers that I have shared with you or Senator Raye has shared with you. A change like this takes lots of time. It takes a thorough review of the EPS formula. You can ask the good Senator from Hancock how challenging the formula is. I'm sure he'll give you a rich discussion that would take hours, maybe even days and maybe even weeks. This change, fundamentally, goes after one of the arguments that the President was saying. We want to help all students. Well, we won't be helping all students. I would agree with him that the funding formula needs to be reviewed. It needs to be looked at. It needs to be analyzed. If we're going to start moving money around like this every single session, we're in for exactly what I think schools and businesses don't want, which is unpredictability, which is volatility, and which is not allowing school districts to plan ahead. I think that would be a sad day for all students in Maine when we start moving the funding formula every single session because of what I believe are a lot of people who just don't understand all parts of the funding formula. Most of our districts, they understand a snippet of how the funding formula works. They complain and then they get us all riled up and they say, "Go do something in Augusta about it." We try and we all want to do what's best for our communities. I think with this change today, just remember, your school districts know what's coming, or should be coming in 2012-2013, and when it is less, yes, there will still be some because we are pumping \$19 million into the funding formula, they will know and they will hold you accountable. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, it has been a wonderful debate actually. I know that there is passion on both sides of this issue. When I thought about this piece of legislation I was pretty sure, even before I got the printouts, that it would be a bill that pitted communities against each other because, clearly, there are some districts in my Senate District that will get less than they will be banking on and some will get more. It's been a very interesting debate. I've been very torn about this issue. I've had to focus, really, on when I sat on the Educational and Cultural Affairs Committee and the really intense work that went into the essential programs and services funding model and also, before I was a State Senator, what the funding was at that time. It was really interesting. I remember my predecessor when she would come to the town council meetings, because I sat on the Orono town council, and I would engage in a discussion with her. It was clearly so political and so volatile, the previous funding formula, that it really wasn't fair. We talk about what's fair. It really was very unfair. It was very much politically motivated. Currently, the system, is it perfect? No, I would agree with everybody here that it's not perfect. It is a model that is a formula that you can count on. I don't like everything about essential programs and services funding formula, but I look at this and I think, "Are we going down the right path by tinkering with pieces of it because we want a different outcome?" I'm sure there would have been other pieces that could have been changed to get an outcome that would have

been different for my district or for perhaps my seatmate's district or others of us in the Chamber. My concern is, and this is what sort of worries me, that if we go down this route with tinkering with it can anybody count on the funding formula as it is, as it stands?

Also one of the things that was raised today was very interesting. I don't know, except for one community I visited which I think is one of the few communities in the state of Maine that probably doesn't have any issues with funding their school system, and that is South Bristol. I happened to be visiting there last weekend. That's because somebody left them something like \$9 million and they have a very small school area. They are very well to do and they have a lot of out-of-staters who come in and pay big amounts in property taxes and so on. They are in good shape. When I look at the losers here, like Old Town, who would lose or get less funding, as the Senator President said earlier, I think about how they are struggling right now with their budgets. That is Alton, which is very rural, and Old Town. I look at those communities and I think, "Are they really that better off than some of these other communities?" I would submit that they are really not. What my concern is here, if we're really talking about policy and as much as I appreciate the words of the Senator from Oxford, Senator Hastings, is that I think we all bring bills forward to try to answer issues in our districts. It's very hard when you get a printout that shows that all of your communities are going to lose funding and then vote in favor of that legislation. Just like I don't think a person would bring a bill forward that everything was good and the communities that they were representing were getting \$2 million more, for example, than \$2 million less, I seriously doubt that they would be advocating for the change. I would love to think that people were caring about this whole state more than just their area, but that is generally not what the people in our districts want. They want us to fight for them. That's who elected us. We are their voice first. To suggest that we should support something just because it favors a certain area of the state over their area I don't think that that is what we're here to do. Yes, we're supposed to represent the whole state, but we're supposed to represent our districts, as their voice. It's been a real toss up for me on this issue.

I've gone back and forth on it. What I keep coming back to, and focusing in on, is all the work that was done on the essential programs and services model and what the message is that will be sent by one legislator, regardless of that legislator being a very wonderful Senate President, and moving in a direction where we are tinkering or moving around different parts. The next concern is what will happen two years from now? Will somebody else want to move some parts around? The predictability really does change. It changes with the whims of the people who are in power. That's what we tried to get away from. I respect what the bill sponsor is trying to do. He's being a voice for his communities, and I think for rural Maine, and his heart is in the right place. Do I think, from a policy perspective, that this is the right direction in which to take us? It concerns me greatly that we will be going down in this way where we could just see fluctuations in this without really looking at a global oversee of the entire program. We need to look at it thoroughly rather than sort of taking pieces of it and saying, "Well, if we change this piece and we change that piece then we will come out and rural Maine will benefit for this and these are people who need it." I just know I've seen Orono and Old Town in my Senate District struggle just like the other areas of my Senate District have. I urge that you do not support the pending motion and think about what could happen in the future with changes in the power and the structure

here. Do we really want to go back to the old days of, you know, politicians really making a determination rather than a funding formula? None of us may like it completely, but perhaps it's a little bit better than it was in the old days. Thank you very much, Mr. President.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I do have some institutional memory on this issue and I wanted to share it with you because I see it a little different than it's been described before you. I was in the Legislature when we had a General Purpose Aid to Education school funding formula, which at the time felt it was much fairer because it had a hold harmless provision where some of the districts that were under great pressures and losing student populations would be held whole. That was a negotiated piece in our budget and was always one of the most controversial pieces that came forward. Then there was this proposal when the previous Administration took over to consolidate schools. At the time, Barbara Merrill, a Democrat Representative, and I teamed up and we defeated that first school consolidation bill. The main reason was because of what it did to devastate rural Maine. Unfortunately, she ran for Governor and I termed out of the Legislature. The next year that same Administration presented what we have before us now, which is the consolidation law that did finally pass. It was not a well thought out process. How do I know that? I took off time from my work and I came up here and I lobbied against that consolidation law on my own time. I predicted that this would be devastating for rural Maine. I begged this Legislature not to pass that consolidation law and the school funding formula. I want to share with you my experience. I believe rural legislators could have stopped consolidation. What happened was that individual legislators were picked out of their seats. They went up onto the forth floor and tweaked the EPS school funding formula. They came back downstairs and all of a sudden there were more votes. I believe EPS was designed poorly, was passed in a way that was inappropriate for this and the other Chamber at the time, and I stressed it by supporting the consolidation repeal. I went out again on my own time, collected signatures, and got the thing on the ballot.

You would think that this was some sort of sacred document in stone that has never been changed. It has been changed and it has been changed significantly. I know because the Senator from Cumberland and I worked on a fix to the school funding formula that was related to the miscellaneous category of EPS that was being misused. We worked together to fix that. It has been changed several times, including school consolidation. At the time I predicted that we would be a decade fixing the EPS school funding formula.

This fix that is before us reminds me of a good friend who got a check in the mail. It wasn't his check. He said, "Do you think I should cash it?" I said, "No, I don't think so. I think you can, first of all, but you're cashing somebody else's money." I think with this formula this money was going to these urban districts and they have been spending for a long time. It was never their money to spend. Those small rural school districts should have a piece of that revenue, but because of the politics of this building they didn't see the money. That is unfortunate. Today's fix is historic in that it brings fairness to the school funding formula that should have occurred a long time ago. Thank you, Mr. President.

**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, I'll be brief. I know that starting next week the days are starting to get shorter and Winter is on the way, so we don't want to continue this too much longer. I do have a question I'd like to pose through the Chair, if I may.

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

Senator **DIAMOND:** Thank you Mr. President. This is a very sincere question. I've listened to the debate, especially the Senator from Cumberland, Senator Alford and the Senator from Washington, Senator Raye. I have some information here from the Senator from Cumberland, Senator Alford, who says that my towns of Windham and Raymond will be losing \$331,779. In SAD 6, the next town over, \$465,975. We'll be losing that money. Senator Raye is telling me that we're not going to lose any. My question through the Chair is, who do I believe?

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, amazingly, I am going to show some leadership that I think the State wants to see. We both are right. You are going to lose money, but that first column that you see is what would happen with the changes and \$19 million going in. The second column is keeping the formula as is. If you are losing money, it just means you would not get as much money for your districts. You still would be getting some because the funding formula works perfectly when money is injected into it. The funding formula would probably work very well if we actually funded it up to 55%. Neither one of those things are happening every single year. What would happen to many of us, including the good Senator who is our President Pro Tem and others, is that, when you look at his sheet and my sheet, none of our communities actually benefit as much with the changes to L.D. 1274. We are not alone. There are 28 of us that either lose entirely or have some gainers and some folks that lose in your districts. Again, I think for the Senator who asked the question, in your district every single one of them receives less money. That would be a hard discussion. I apologize; one of yours does gain a little money. I apologize. Yes, RSU 61 does very well. RSU 6 and RSU 14 don't do as well with these changes. Those are going to be hard discussions for you and many others in this Body that have a mixed bag. Thank you very much for the question.

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

Senator **RAYE:** Thank you Mr. President. I rise in response to the question from the good Senator from Cumberland, Senator Diamond. The school districts in Senator Diamond's district, under the existing law, would receive an increase with the \$19 million of \$797,754. If the Majority Report is accepted, they will receive an increase of \$701,532. Currently, the entire budget for

the school districts in Senator Diamond's district is \$34,894,416. Under current law, the increase will become \$35,692,171. Under this proposal, it would be \$35,595,949. It's a difference of \$96,000 in your gain. You will be gaining money no matter what. You are going to be gaining money no matter what; \$797,000 under current law or \$701,000 under this. The \$96,000 represents two-tenths of 1% of the budget of the schools in your district. That is the difference between the two.

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

Senator **HOBBINS:** Thank you Mr. President. It would probably be remiss for me not to get up to talk about my school districts, but my problem is that this has probably been one of the most interesting and compassionate and sincere debates that I've seen in a long time. Lincoln and Douglass at it again. I know one thing, Mr. President, I have a stiff neck from this tennis match. It has been a very good discussion of the issue. The problem I have is that I can see the compassion of the good Senator from Washington, Senator Raye, and, as always, I can see the heavy lifting and the compassion and tenacity and respect I have for my seatmate and my fellow colleague leader. My problem is that when I look at the figures for my district, again with due respect to the gentleman from Oxford where my wife's family is from, so I hope they forgive me for my speech because they are not going to succeed as well if this motion is defeated, and it is telling what the loses would be for Biddeford and RSU 23, which includes the communities of Saco, Old Orchard, and Dayton, and RSU 6, which includes the community of Buxton. This formula would not be advantageous to those communities. I understand the dynamics of the RSU situation and the school consolidation battle that occurred. I really never thought much about it when it first came up because I never knew what the figures would be. Unfortunately, in my own district, RSU 23, there is significant discussion between the town of Dayton versus the town of Saco, which is a smaller community, and the town of Old Orchard Beach the city of Saco. What we need to do is, and I would hope we would not rush to judgment with tinkering with this formula at this time. We have a whole other session to work on this. The Education Committee, I believe, has made significant progress in reviewing all educational aspects of our system and look at the bills we have discussed before from the Education Committee. This seems, to me, to need to be worked on further. I know that the community of Dayton would be happy with that because they feel that they have been wronged by the process of RSU 23's emergence from the last educational funding law. Not that the good Senator from Oxford and the good Senator from Washington are wrong, it's just that there seems to be a difference of opinion and a significant loss. This loss, using the facts and figures that I have, will mean over a \$1 million loss to the communities that I represent, which out of \$6 million is a significant amount. I would hope we could defeat the pending motion and think about the idea of maybe putting this back, recommitting it to the committee, for further study. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#242)**

**YEAS:** Senators: COLLINS, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, THOMAS, TRAHAN, WHITTEMORE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFKY, HILL, HOBBINS, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THIBODEAU, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

**EXCUSED:** Senator: GOODALL

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED. READ ONCE.**

Committee Amendment "A" (S-240) **READ.**

On motion by Senator **RAYE** of Washington, Senate Amendment "A" (S-273) to Committee Amendment "A" (S-240) **READ.**

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

Senator **RAYE:** Thank you Mr. President. This amendment clarifies the intent of the Committee Amendment in that this will be accomplished within existing resources. In consultation with the department, we learned that an analyst with OFPR, absent this clarifying language, assumes that the increased allocation for districts with less than 1,200 was to be above and beyond current funding. I want to make it clear that the spreadsheets that everybody has seen about their districts assumes this amendment, assumes that it was all to be done within existing funding. This simply clarifies that. It was not the intent of the bill's author nor of the Education Committee that it would be above and beyond, that it would simply be within existing resources.

**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'm thoroughly confused now. When I look at the fiscal note for this bill, it talks about \$18 million in fiscal year 2011-2012, \$22 million in 2012-2013, and increases beyond that. I'm looking at the fiscal note for L.D. 1274 on line and it's a big fiscal note. The discussion was that there was going to be \$6 million moved around. Some of the documents show an increase of \$19 million, which I believe assumes that we're going to pass the budget, but I could be mistaken. I would just like to state for the record, since I'm very proud of the Cape Elizabeth school system and I just

want to state for the record that I hope, in the spirit of Senator Hastings' comments, that we would all recognize what a gem we have and that the Cape Elizabeth school budget of \$21 million that the town receives \$2,200,000, which represents 10%. I also need some clarification, please, on the numbers. Thank you.

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

Senator **RAYE:** Thank you Mr. President. The Senator, I believe, is looking at the fiscal note that had been assigned to the original bill. The Committee Amendment fiscal note is much smaller and this amendment clarifies it.

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

Senator **SCHNEIDER:** Thank you Mr. President. I'd like to pose a question through the Chair.

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

Senator **SCHNEIDER:** Thank you Mr. President. I am also confused on the fiscal note. Again, it's a reoccurring fiscal note question which I have because we don't have dynamic fiscal notes. Is the amended bill, the funding for it, contingent on a budget with which we have yet to pass? How is that possible if we don't have a dynamic fiscal note? We're banking on money on a bill that we don't know if that's the case. We're banking on money from a bill that is yet to become law.

**THE PRESIDENT PRO TEM:** The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Mr. President. There are really two separate issues. The fiscal note is only about the bill. It's not about the budget. The fiscal note, this is simply clarifying that there is nothing in the bill that would require the expenditure of additional funds. It's simply changing the formula. The documents that have been passed around by Senators on both sides of the issue reflect the fact of what would happen with the \$19 million that is in the second year biennium. Bear in mind, there are two years of increases in GPA in the biennium. The first year there is a \$22 million increase proposed in the budget. The second one is a \$19 million increase proposed in the budget. We're at the end of the session with two things running pretty much in tandem. The budget's going to be here. It's in the lower Chamber tonight and here tomorrow. This is here today. It's going to the House tomorrow. They are kind of going in tandem. There are really two different issues with respect to your question, I believe.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, if I understand this amendment correctly, what is happening is of that \$6.3 million that's being moved around \$4 million of it or so was new money. What I

believe is this is new money that we would have to go find. It is outside of the \$19 million. It is outside of the \$22 million. This is \$4 million new dollars. That is how it was explained to us in committee and that is how it was explained to me by the DOE. Now what this is saying is that we're going to say that this is part of the \$19 million and \$22 million of new money going into GPA. Yes, this is all new money, but the bottom line for me is this is a change that is causing \$4 million of money that wasn't part of the Governor's budget and now it's going to be hidden inside of the Governor's budget. Either I don't understand it, which means that the Department of Education doesn't understand it, or something doesn't seem right here. I understand that we have \$41 million going into GPA, but \$4 million of it is this bill that was not part of our discussions in the Education Committee and now is the discussion today because this bill is going forward. This amendment, to me, just puts it all within existing resources, which is not truly what's happening. There is \$4 million additional new money being added to cost of the education because of this bill. Thank you, Mr. President.

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

Senator **BARTLETT:** Thank you Mr. President. It seems to me that if we were to oppose this amendment this would require some additional dollars to come in to help those rural communities we're trying to help without simply taking it away, that \$4 million or \$4.5 million, from other communities. It seems to me that if we want to help rural Maine, or particular parts of rural Maine, within this bill without hurting anybody else perhaps the best strategy is to oppose this amendment and send it to the Appropriations Table, which we can deal with it after the budget, and then see what we can do to find a way that is good for everybody instead of pitting people against each other.

On motion by Senator **BARTLETT** 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 Washington, Senator Raye.

Senator **RAYE:** Thank you Mr. President. I'm sorry that this is injecting an element of unnecessary confusion into this debate. I can be very clear about this, as can the department. There is no confusion from the department. I can assure members of the Senate there is zero confusion around this. The analyst at the OFPR interpreted, didn't catch the fact from the language in the Committee Amendment, that this was to be accomplished within existing resources. It's not \$4 million, just for the record. It's \$2.3 million in this biennium. I believe some Senators are perhaps looking into the out years and adding the money on, which is not part of the discussion. This is all about the analyst misinterpreting that it was actually asking that we add the money for fixing the districts of less than 1,200 kids, the 10% reduction in the staffing ratio. When the department was puzzled they went to the analyst and said, "Why is this in here?" That's not what we intended to do. This amendment simply clarifies it. The spreadsheets that were prepared by the department, that we've all looked at, were all based on this, that this was coming from existing resources. Regardless of your position on the underlying bill, there should be no heartburn about this amendment. It is a simple clarification. I

would hate for it to be used as ruse to slow this bill down or to thwart the will of the majority of Senators who voted in support of the Committee Amendment. This is a simple clarification of the sort that we pass here with frequency without a roll call. I just want to make sure that people understand, there is no confusion on the department's part. There is no confusion on the sponsor's part. There is no confusion on the part of the Chairman of the committee. It is a simple clarification.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen, the fiscal note for this amendment could not be clearer. Actually it's a little unclear because it shows a savings of \$2.3 million. That's what happens when a prior fiscal note showed an expense of \$2.3 million. When they do a clarification they don't just put a zero in, they take the \$2.3 million out. What it shows is, for this amendment, a fiscal note savings of \$2.3 million for the second year of the next biennium. That is clarified in the language, as amended by this amendment. This bill will result in a redistribution of State subsidy, period. No new money and no savings, just redistribution.

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

Senator **BARTLETT:** Thank you Mr. President. I think this is where we fundamentally disagree. The original bill says that this will cost in additional resources. The question with this amendment becomes whether we get those additional resources by taking it away from other districts. The fiscal note makes that crystal clear, that they are redistributing the resources so some school districts will get more and others will get less. Why in the world wouldn't we want to send this to the Appropriations Table and take a look at it? If they come up with any amount of additional money that could reduce the negative impact to the schools that are losing, why not do it? We're not talking about a delay of very long. The Appropriations Committee will be running the table pretty soon. Let's take a shot at this and see if we can do this in a way we can all support. If we could find a way to find that \$4.5 million I'll bet I could stand up here supporting this bill. I would stand up on the floor and say that, given the resources are not being taken from one community to another, I'd proudly support it because I do want to help rural Maine. Thank you, Mr. President.

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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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**THE PRESIDENT PRO TEM:** The pending question before the Senate is the motion by the Senator from Washington, Senator Raye to Adopt Senate Amendment "A" (S-273). 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 (#243)**

**YEAS:** Senators: COLLINS, DIAMOND, FARNHAM, HASTINGS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SULLIVAN, THOMAS, TRAHAN, WHITTEMORE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DILL, GERZOFISKY, HILL, HOBBS, SNOWE-MELLO, THIBODEAU, WOODBURY, THE PRESIDENT PRO TEM - JONATHAN T.E. COURTNEY

**EXCUSED:** Senator: GOODALL

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **RAYE** of Washington to **ADOPT** Senate Amendment "A" (S-273) to Committee Amendment "A" (S-240), **PREVAILED.**

Committee Amendment "A" (S-240) as Amended by Senate Amendment "A" (S-273) thereto, **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-240) AS AMENDED BY SENATE AMENDMENT "A" (S-273)** thereto.

Ordered sent down forthwith for concurrence.

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

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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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The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from York, Senator **COURTNEY** to his seat on the floor.

Senate called to order by the President.

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Off Record Remarks

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**RECESSED** until 6:00 in the evening.

After Recess

Senate called to order by the President.

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

**ENACTORS**

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

**Emergency Measure**

An Act To Conform the Authority of the Department of Environmental Protection to Federal Law  
S.P. 507 L.D. 1575  
(C "A" S-201)

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

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This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Resolve**

Resolve, To Review Issues Dealing with Regulatory Takings  
H.P. 1086 L.D. 1477  
(C "A" H-600)

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

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**Acts**

An Act Regarding the Moose Lottery and Moose Management  
H.P. 235 L.D. 291  
(C "A" H-598)

An Act To Reduce Regulations for Residential Rental Property Owners  
H.P. 889 L.D. 1198  
(H "A" H-595 to C "A" H-575)

An Act To Allow Deferred Disposition in Juvenile Cases  
S.P. 402 L.D. 1299  
(C "A" S-289)

An Act To Extend Fire Code Rules to Single-family Dwellings Used as Nursing Homes for 3 or Fewer Patients  
H.P. 954 L.D. 1302

An Act To Amend the Laws Regarding Custody of the Remains of Deceased Persons  
H.P. 1095 L.D. 1490  
(C "A" H-596)

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

---

An Act Regarding Pharmacy Reimbursement in MaineCare  
H.P. 272 L.D. 346  
(C "A" H-563)

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

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An Act To Require a Person Who Commits a Sex Offense against a Dependent or Incapacitated Adult To Register under the Sex Offender Registration and Notification Act of 1999  
S.P. 205 L.D. 624  
(C "A" S-286)

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

---

An Act To Create a Consolidated Liquor License and Amend the Laws Governing Agency Liquor Stores  
S.P. 403 L.D. 1300  
(C "A" S-226)

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

---

An Act To Promote School Attendance and Increase School Achievement  
S.P. 473 L.D. 1503  
(C "A" S-287)

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

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**Resolves**

Resolve, To Protect the State from Accumulating Future Hospital Debt

H.P. 628 L.D. 831  
(C "A" H-581)

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

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Resolve, To Direct the Department of Education To Contract for an Independent Review of the Essential Programs and Services Model

H.P. 702 L.D. 958  
(C "A" H-604)

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

---

Resolve, To Reform the Land Use and Planning Authority in the Unorganized Territory

H.P. 1126 L.D. 1534  
(C "A" H-561)

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

---

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

**RECALLED FROM GOVERNOR'S DESK**

An Act To Reduce Energy Prices for Maine Consumers  
S.P. 501 L.D. 1570  
(C "A" S-272)

(In Senate, June 9, 2011, **PASSED TO BE ENACTED**, in concurrence.)

(**RECALLED** from the Governor's Desk, pursuant to Joint Order (S.P. 518).)

On motion by Senator **THIBODEAU** of Waldo, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENACTED**, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

---

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Increase the Penalty for Sexual Abuse by Certain Offenders"

S.P. 432 L.D. 1392  
(C "A" S-283)

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-283)** (3 members)

In Senate, June 10, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-283)**.

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

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

Sent down for concurrence.

---

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

**COMMUNICATIONS**

The Following Communication: H.C. 199

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

June 14, 2011

The Honorable Joseph G. Carleton, Jr.  
Secretary of the Senate  
125th Maine Legislature  
Augusta, Maine 04333

Dear Secretary Carleton:

The House voted today to insist on its previous action whereby it Indefinitely Postponed Bill "An Act To Allow Municipalities To Restrict the Possession of Firearms in Certain Circumstances" (S.P. 170) (L.D. 578) and accompanying papers.

Sincerely,

S/Heather J.R. Priest  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

The Following Communication: H.C. 200

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

June 14, 2011

The Honorable Joseph G. Carleton, Jr.  
Secretary of the Senate  
125th Maine Legislature  
Augusta, Maine 04333

Dear Secretary Carleton:

House Paper 617, Legislative Document 821, "Resolve, To Study the Feasibility of Transferring Administration of the Liquor Laws to the Bureau of Alcoholic Beverages and Lottery Operations," having been returned by the Governor, together with objections to the same, pursuant to Article IV, Part Third, Section 2 of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

67 voted in favor and 75 against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,

S/Heather J.R. Priest  
Clerk of the House

**READ and ORDERED PLACED ON FILE.**

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

**ENACTORS**

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

**Act**

An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code  
H.P. 1042 L.D. 1416  
(C "A" H-553)

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 (#244)**

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, GERZOFISKY, HILL, HOBBS, MARTIN, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senators: DILL, GOODALL

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being excused, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Legalize and Tax Marijuana" H.P. 1067 L.D. 1453

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

Signed:

Senators:  
MASON of Androscoggin  
WHITTEMORE of Somerset



Representatives:

PLUMMER of Windham  
BURNS of Whiting  
CLARKE of Bath  
HANLEY of Gardiner  
LAJOIE of Lewiston  
LONG of Sherman  
MORISSETTE of Winslow  
SANDERSON of Chelsea

RUSSELL of Portland  
VALENTINO of Saco  
WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-174).**

Signed:

Representatives:

DAMON of Bangor  
JOHNSON of Eddington

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

Reports **READ**.

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-527).**

Signed:

Senator:

GERZOFISKY of Cumberland

Representatives:

BLODGETT of Augusta  
HASKELL of Portland

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

Reports **READ**.

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

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator WHITTEMORE for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Further Improve Maine's Health Insurance Law"

S.P. 515 L.D. 1580

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-305).**

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

**READ ONCE.**

Committee Amendment "A" (S-305) **READ** and **ADOPTED**.

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

On motion by Senator **WHITTEMORE** 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.

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Repeal the Maine Clean Election Laws"

H.P. 489 L.D. 659

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

Signed:

Senators:

FARNHAM of Penobscot  
PATRICK of Oxford  
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn  
CAREY of Lewiston  
CHIPMAN of Portland  
CROCKETT of Bethel  
LONGSTAFF of Waterville

**ROLL CALL (#245)**

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

NAYS: Senators: None

EXCUSED: Senators: DILL, GOODALL

33 Senators having voted in the affirmative and no Senator having voted in the negative, with 2 Senators being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Committee of Conference**

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents"

H.P. 865 L.D. 1167

Had the same under consideration and asked leave to report:

That the House **Recede** from whereby it **Accepted** of the Majority **Ought To Pass As Amended** Report of the Committee on **TRANSPORTATION; Recede** from **Passage to Be Engrossed as Amended by Committee Amendment "A" (H-405)** and **Recede** from whereby it **Adopted** Committee Amendment "A" (H-405).

That the House **Concur** with **Acceptance** of the Minority **Ought To Pass As Amended** Report of the Committee on **TRANSPORTATION; Concur** with **Adoption** of Committee Amendment "B" (H-406), and **Concur** with **Passage To Be Engrossed As Amended By Committee Amendment "B" (H-406)**.

That the Senate **Read** and **Accept** the Report.

On the Part of the Senate:

Senator COLLINS of York  
Senator HASTINGS of Oxford  
Senator DIAMOND of Cumberland

On the Part of the House:

Representative CEBRA of Naples  
Representative GILLWAY of Searsport  
Representative MAZUREK of Rockland

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Allow Counties To Opt Out of Maine Judicial Marshal Service" H.P. 1132 L.D. 1543

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

Signed:

Senators:

HASTINGS of Oxford  
BARTLETT of Cumberland  
WOODBURY of Cumberland

Representatives:

BEAULIEU of Auburn  
FOSTER of Augusta  
KRUGER of Thomaston  
MALONEY of Augusta  
MOULTON of York  
PRIEST of Brunswick  
ROCHELO of Biddeford  
SARTY of Denmark  
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-605)**.

Signed:

Representative:

NASS of Acton

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

Reports **READ**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 265 L.D. 332

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

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

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

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

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50: Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded, a Major Substantive Rule of the DHHS (EMERGENCY)

H.P. 1164 L.D. 1581

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

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

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

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

The Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Repeal the Requirement That Electrical Companies Be Licensed"

H.P. 688 L.D. 928

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

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**, in concurrence.

**Ought to Pass As Amended**

The Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow Alternative Delivery Methods for Locally Funded School Construction Projects"

H.P. 413 L.D. 530

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-613)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-613)**.

Report **READ**.

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

The Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Amend the Maine Medical Use of Marijuana Act To Protect Patient Privacy"

H.P. 951 L.D. 1296

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-615)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-615)**.

Report **READ**.

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

Senate at Ease.

Senate called to order by the President.

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

**REPORTS OF COMMITTEES**

**Senate**

**Ought to Pass As Amended**

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program"  
S.P. 436 L.D. 1407

Reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-306)**.

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

**READ ONCE**.

Committee Amendment "B" (S-306) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

---

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act Regarding Write-in Candidates in Municipal and City Elections"  
H.P. 629 L.D. 832

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-403)** (12 members)

Minority - **Ought Not to Pass** (1 member)

In House, June 9, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-403)**.

In Senate, June 10, 2011, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

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

On motion by Senator **FARNHAM** of Penobscot, the Senate **INSISTED**.

---

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

**REPORTS OF COMMITTEES**

**Senate**

**Divided Report**

Eight members of the Committee on **TAXATION** on Bill "An Act To Provide Tax Relief for Maine's Citizens by Reducing Income Taxes"  
S.P. 252 L.D. 849

Reported in Report "A" that the same **Ought to Pass as Amended by Committee Amendment "A" (S-308)**.

Signed:

Senators:  
TRAHAN of Lincoln  
HASTINGS of Oxford

Representatives:  
KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BRYANT of Windham  
BURNS of Alfred  
HARMON of Palermo  
WATERHOUSE of Bridgton

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

Signed:

Representatives:  
BERRY of Bowdoinham  
BICKFORD of Auburn  
FLEMINGS of Bar Harbor  
PILON of Saco

One member of the same Committee on the same subject reported in Report "C" that the same **Ought to Pass as Amended by Committee Amendment "B" (S-309)**.

Signed:

Senator:  
WOODBURY of Cumberland

Reports **READ**.

Senator **TRAHAN** of Lincoln moved the Senate **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-308)**.

Senate at Ease.

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

SENATE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act Regarding the Membership of the Midcoast Regional Redevelopment Authority Board of Trustees" S.P. 54 L.D. 204 (C "A" S-19)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-19)** (7 members)

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

In Senate, March 31, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-19)**.

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

Senator **RECTOR** of Knox moved the Senate **RECEDE** and **CONCUR**.

Same Senator requested and received leave of the Senate to withdraw his motion to **RECEDE** and **CONCUR**.

On motion by Senator **ALFOND** of Cumberland, the Senate **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Sent down for concurrence.

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Implement the Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code and Related Statutes"

H.P. 1028 L.D. 1399

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-618)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-618)**.

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

**READ ONCE**.

Committee Amendment "A" (H-618) **READ** and **ADOPTED**, in concurrence.

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

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Bring the State's Laws into Compliance with the National Instant Criminal Background Check System"

H.P. 623 L.D. 827

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

Signed:

Senators:

MASON of Androscoggin  
GERZOFKY of Cumberland  
WHITTEMORE of Somerset

Representatives:

PLUMMER of Windham  
BURNS of Whiting  
CLARKE of Bath  
HANLEY of Gardiner  
HASKELL of Portland  
LAJOIE of Lewiston  
LONG of Sherman  
MORISSETTE of Winslow  
SANDERSON of Chelsea

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-612).**

Signed:

Representative:  
BLODGETT of Augusta

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

Reports **READ**.

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

---

**Divided Report**

The Majority of the Committee on **TAXATION** on Bill "An Act To Help Deter Youth Smoking and To Help Smokers Quit" (EMERGENCY)

H.P. 419 L.D. 536

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

Signed:

Senators:  
TRAHAN of Lincoln  
HASTINGS of Oxford

Representatives:  
KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BICKFORD of Auburn  
BURNS of Alfred  
WATERHOUSE of Bridgton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-616).**

Signed:

Senator:  
WOODBURY of Cumberland

Representatives:  
BERRY of Bowdoinham  
BRYANT of Windham  
FLEMINGS of Bar Harbor  
HARMON of Palermo  
PILON of Saco

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

Reports **READ**.

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

---

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

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Update the Maine Wind Energy Act To Include Low-emission Energy" (EMERGENCY)  
H.P. 1005 L.D. 1366

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-610).**

Signed:

Senators:  
THIBODEAU of Waldo  
BARTLETT of Cumberland  
RECTOR of Knox

Representatives:  
FITTS of Pittsfield  
BEAVERS of South Berwick  
CORNELL du HOUX of Brunswick  
CRAY of Palmyra  
DION of Portland  
HAMPER of Oxford  
HINCK of Portland  
LIBBY of Waterboro  
LUCHINI of Ellsworth

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-611).**

Signed:

Representative:  
DUNPHY of Embden

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610).**

Reports **READ**.

On motion by Senator **THIBODEAU** of Waldo, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-610)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-610) **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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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Increase the Legal Age To Purchase, Use or Sell Tobacco Products"  
H.P. 447 L.D. 589

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

Signed:

Senators:

McCORMICK of Kennebec  
CRAVEN of Androscoggin  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
MALABY of Hancock  
O'CONNOR of Berwick  
PETERSON of Rumford  
SANBORN of Gorham  
SANDERSON of Chelsea  
SIROCKI of Scarborough  
STUCKEY of Portland

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-614)**.

Signed:

Representative:

FOSEL of Alna

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

Reports **READ**.

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

**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit Smoking in Private Clubs Except in Separate Enclosed Areas"  
H.P. 921 L.D. 1230

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

Signed:

Senators:

McCORMICK of Kennebec  
FARNHAM of Penobscot

Representatives:

EVES of North Berwick  
FOSEL of Alna  
MALABY of Hancock  
O'CONNOR of Berwick  
PETERSON of Rumford  
SANDERSON of Chelsea  
SIROCKI of Scarborough  
STUCKEY of Portland

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

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland  
SANBORN of Gorham

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

Reports **READ**.

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

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

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Ensure Cost-effective Services for Persons Needing Neuropsychological Testing

H.P. 940 L.D. 1281

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-624)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-624)**.

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

**READ ONCE.**

Committee Amendment "A" (H-624) **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 Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)  
H.P. 1174 L.D. 1586

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-628)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-628)**.

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

**READ ONCE.**

Committee Amendment "A" (H-628) **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 **STATE AND LOCAL GOVERNMENT** on Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell (EMERGENCY)  
H.P. 1172 L.D. 1584

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-627)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627)**.

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

**READ ONCE.**

Committee Amendment "A" (H-627) **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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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass**

The Committee on **HEALTH AND HUMAN SERVICES** on Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, Appendix D: Principles of Reimbursement for Child Care Facilities, a Major Substantive Rule of the Department of Health and Human Services (EMERGENCY)

H.P. 1173 L.D. 1585

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

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

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

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

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**Ought to Pass As Amended**

The Committee on **TRANSPORTATION** on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013" (EMERGENCY)

H.P. 989 L.D. 1348

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-622)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-622)**.

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

**READ ONCE.**

Committee Amendment "A" (H-622) **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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All matters thus acted upon were ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Require Use of the Electronic Death Registration System"

S.P. 392 L.D. 1271  
(C "A" S-157)

In Senate, May 31, 2011, **PASSED TO BE ENACTED**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-157) AS AMENDED BY HOUSE AMENDMENT "A" (H-621)** thereto, in **NON-CONCURRENCE**.

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

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later (6/8/11) Assigned matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Allow Table Games at a Facility Licensed To Operate Slot Machines on January 1, 2011" H.P. 1044 L.D. 1418

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-522)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - June 8, 2011, by Senator **FARNHAM** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 8, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522) AS AMENDED BY HOUSE AMENDMENT "A" (H-564)** thereto.)

(In Senate, June 8, 2011, Reports **READ**.)

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

**READ ONCE.**

Committee Amendment "A" (H-522) **READ.**

House Amendment "A" (H-564) to Committee Amendment "A" (H-522) **READ.**

Senator **FARNHAM** of Penobscot moved to **INDEFINITELY POSTPONE** House Amendment "A" (H-564) to Committee Amendment "A" (H-522), in **NON-CONCURRENCE**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, what House Amendment "A" does is add 2% to the cascade under which it will be 16% for table games for Hollywood Slots. This will bump it up to 18%, which is a lot less than what the fee is for slot machines, which is 39%. The idea behind the amendment from the other Body was to give the 2% to the tribe in Indian Island. You wonder why I rise. I'm not sure whether I'm in favor of or opposition, neither for nor against, because of the way the gaming bills have gone, like a reporter wrote in an earlier newspaper, this is like Ringling Brothers, Barnum and Bailey's Circus. I'm not sure under what tent I'm in. For years the tribes have been short-changed, probably even discriminated against. We actually took a vote here in this Body, one that I didn't support, but we actually helped the tribes out, one of the tribes out. Here we are again. We have another issue before us. Are we going to help the other tribe out? I'm conflicted because the testimony before the committee was that during our high stakes bingos we truck people in from Massachusetts, New Jersey, Connecticut and bring them to our high stakes bingos, which is a good thing for them because there are only so many people in the state of Maine that will go to high stakes bingo. On Saturdays they get the full effect of trucking their customers in. What happens on Sundays, believe it or not, Mr. President, is a lot of people happen to go down the road to Hollywood Slots, therefore, taking some of their income with them. In fact, what this actually does is subsidizes Hollywood Slots by bringing out-of-state players. I'm glad to see out-of-state players leave their money in Maine. In reality, is this fair to the tribes? I think not. I think, Mr. President, you and I had as much passion for the tribes in 2007 as anyone did. I have that same passion tonight because what this Indefinite Postponement is going to do is once again we're going to take something that the tribes want, which is to get their subsidizes back. I don't know if we can really be that hypocritical or not. I don't even know if I can support this or not. I've got to look myself in the mirror and say, "Well, what are we going to do? Who are

we going to discriminate against next? Who's going to benefit by the ill-gotten gains of gaming?" I don't know, but it is a fact that the income of the tribes in Indian Island have diminished since Hollywood Slots has become a quality business. There is a cascade, and I have fought against every cut into the cascade that exists for slots and have always said I would until the committee decides to really take a look at doing something with that money for the betterment of the state of Maine. Technically or legally, there is no cascade yet for table games. We will be voting on the cascade for table games, so we now have a rare opportunity to help the other tribe gain back some of their income. In retrospect, I guess what I'm going to be asking you all is to search your heart and find out if you want to help one tribe and not the other. If you want to help both tribes, vote against this Indefinite Postponement motion. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, also out of the Veterans and Legal Affairs Committee there came a bill that took the number of days that high stakes bingo can happen at Indian Island from some 47 days to 100 days a year. That was in an effort to increase the days that were available in order for the tribe to be able to have more people come in. We made all the weekends three day weekends instead of two day weekends and increased that. We also, again, have cut the fee that must be paid by the tribe again this year by \$25,000 in order to take into account that the tribes have been affected. We also allowed for the use of bingo machines, electronic bingo machines, in order to make the gambling more attractive on Indian Island. I would say that this isn't a point of discrimination. Relief was looked at by the committee. Relief was very carefully looked in. When we voted we did not put in an 18% rate. Based on the testimony before our committee, the 16% rate is higher than the rest of the country, but it seems that table games do not make the same kind of money that slot machines do. We looked at a cascade and tried to make sure that we kept the cascade going to State purposes with an acknowledgement that we had affected and not helped some of the other people, the non-profits, who were trying to also get over the competition that has come along. We have looked at this. The bill has already come by and gone back and forth. We have provided relief to the tribe. I would suggest that we don't operate by discriminating in our committee. We try to at least be as even handed as possible without tipping in favor of one or another of the entities that come before us. Therefore, Mr. President, I would move that we accept the motion to Indefinitely Postpone. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I can agree with basically everything that the good Senator has said. Even though we did give the tribe 100 or 200 or 300 days to run their high stakes bingo, it's still going to be a subsidy to Hollywood Slots because they are trucking in bus loads of customers. If the customers, because the gaming has only a certain amount of dollars, would stay at the high stakes bingo parlors, I would have no problem with that. The reason the committee actually took a

look at giving 2% in the cascade is because non-profits have been devastated by the gaming facility at Hollywood Slots. We're trying to keep the non-profits, which realistically are your American Legions and VFWs which are near and dear to the Veterans and Legal Affairs Committee because we hear from them that they are almost as destitute as the tribes. The Legion halls and the VFWs are going out of business because they have no revenue. We did rectify that within the bill, or at least we are making an attempt to do that. The way this is, one can say; what is the going rate nationally? One can say whether 1% gross or 10% net is the same thing. It doesn't matter. What matters, realistically or not, is if you think we should be doing something for the tribes. Thank you, Mr. President.

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

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Indefinitely Postpone House Amendment "A" (H-564) to Committee Amendment "A" (H-522). 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 (#246)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, HILL, HOBBS, JACKSON, PATRICK, ROSEN, SCHNEIDER, THOMAS

EXCUSED: Senators: DILL, GOODALL

22 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **INDEFINITELY POSTPONE** House Amendment "A" (H-564) to Committee Amendment "A" (H-522), in **NON-CONCURRENCE**, **PREVAILED**.

On motion by Senator **PATRICK** of Oxford, Senate Amendment "A" (S-268) to Committee Amendment "A" (H-522) **READ**.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, what this amendment does is; right now you have a \$100,000 fee for 20 years. This would reduce it down to a \$50,000 fee for 10 years. Basically, what that is, if you figure the math, is a \$5,000 per table fee per year. If you multiply that

out for 10 years or 20 years, it should come out fairly accurate. The only reason I'm doing this because, as I talked in committee, of what happens in the sale of liquor industry by the State of Maine. We found out after we entered into the deal that it was a terrible deal for the State of Maine. In retrospect, I probably should have changed the amendment to 5 years, which I didn't and I wouldn't have a problem taking a look at 5 years. It's 10 years for now and I actually think what this would do to Hollywood Slots and the Oxford Casino is that will actually be a lesser amount, which probably will make it so if they are not making as much on the table games this, in fact, would probably be a good idea for them. At the end of the 10 year period, if in fact the income per table is a lot more the next time we change our license fee, it will be a lot higher than \$5,000 per table. Thank you.

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

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

Senator **PLOWMAN:** Thank you Mr. President. I would urge that you vote not to accept this amendment. As we looked through, in the committee, this was a figure that we arrived at after much discussion and negotiation in the committee. I understand the purpose of the motion, but when we passed the bill we exempted Oxford for a year from having to pay this fee so that they would be able to start up and move through the process, recognizing that Hollywood Slots had already had its start up and would be able to license it. That was the agreement that we came to in the committee and I would urge you to respect the committee's negotiations as we came point to point, gave up things, and moved things along. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Oxford, Senator Patrick to Adopt Senate Amendment "A" (S-268) to Committee Amendment "A" (H-522). 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 (#247)**

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, HASTINGS, JACKSON, PATRICK, SCHNEIDER, SNOWE-MELLO, THIBODEAU, WOODBURY

NAYS: Senators: COLLINS, COURTNEY, CRAVEN, DIAMOND, FARNHAM, GERZOFISKY, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SULLIVAN, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senators: DILL, GOODALL

10 Senators having voted in the affirmative and 23 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **PATRICK** of Oxford to **ADOPT** Senate Amendment "A" (S-268) to Committee Amendment "A" (H-522), **FAILED**.

Committee Amendment "A" (H-522) **ADOPTED**, in **NON-CONCURRENCE**.

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

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

Senator **PATRICK:** Thank you Mr. President. Just to let everyone know what they will be voting on is that in 2003 the racinos, two, came into play where one only actually legally got licensed, and that is Hollywood Slots. What this will do is turn the racino into a casino. We just passed two more racinos. I can't talk about a bill that will be coming before us, but in actuality this is now going to be a full fledged casino. I just want to let everyone know that, where they want to let gambling rip throughout the state of Maine, we might as well have all kinds of casinos. Thank you, Mr. President.

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

Senator **FARNHAM:** Thank you Mr. President. This bill would put into place the guidelines that would allow a facility already licensed for slot machines to add table games. This bill actually came to the Veterans and Legal Affairs Committee by a legislator and not a citizens' initiated process, which allowed the committee to actually get in front of what new opportunity would be. It allowed us to be able to put forth and put in place the guidelines, finally, for, in this case, a facility already authorized for slot machines that could add table games. In the past, as you know, we've been very reactive to anything in the gaming arena. This would allow us to get out front. As we have already alluded to, it had to do with setting up the licensing fees. It had to do with establishing a cascade, or a tax in this case, which had to be pretty much in line with the one already set up by the law that Oxford has with the 16% tax. In this case it was 9% to the General Fund, 3% to the Gambling Control Board for administration, 2% to the host committee, and 2% non-profits who may be affected by gaming. We also had to deal with the question of whether or not we should have a municipal or statewide vote involved in adding this new opportunity. As has been alluded to, Hollywood Slots being the one in play, in this case they had had a state vote and a municipal vote already, but we also thought that, in this case, perhaps they should check in with the municipality and just make sure that adding this would be an okay thing. Again, in the case of Hollywood Slots, they've been a good neighbor. They've been involved in the community by sponsoring things on the waterfront. They've been involved in opening their doors to the community in a lot of different ways, in supporting the race track. We don't know if that will be the case of all the facilities, so the committee felt that that would be something worth adding and keeping in the bill. As for when table games would be up and running, L.D. 1418 would not allow the facility already in existence that's authorized slot machines to be able to start table games any earlier than the facility at Oxford and

any earlier than any other facility that would be authorized or until such time, and it will probably take place in second half of this session, that final decisions on licensing fees and funding and additional funding for positions and things within public safety, the monitoring and the oversight and everything is in place. Again, this legislation finally allowed the Legislature to get in front of what we see coming in the gaming arena as far, as in this case, a facility already authorized to have slot machines to be able to add table games. As was alluded to, the majority of the committee supported this. We had some long time members on the committee who worked on this and had the insight and guidance that was added to allow the committee to come up with these guidelines.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I kind of agree with the Senator from Penobscot, Senator Farnham, that it's good to get out in front of this. The only thing, and I totally agree with the Senator Oxford, Senator Patrick, is that the State has not always done well selling 20 year franchises. This is a fee that we've never even charged before. We don't have any history on it whatsoever. It may be twice as big as it should be. It may be 100% too small. Why would we lock ourselves in for 20 years on a fee? We haven't had the greatest luck doing that. As the Senator from Oxford, Senator Patrick, points out, we're still basing the fee on \$5,000 a year. It's not as if we're discounting that. Why take away the option of reviewing this in 10 years instead of 20 years? A lot happens in 20 years. The other point I'd kind of like to make is that if you set the fee so high up front you're stifling competition. If you have an existing facility that is up and going and is now generating substantial revenue, they are in a much better position to pay an up front fee. Oxford will have to deal with it, but they are in the process now of trying to invest millions of dollars in facilities and infrastructure that will generate jobs. The bottom line here is I think we keep forgetting that much of this is about jobs. Do we want to create a system that stifles the ability to create jobs? All this amendment does is say to keep the same per year but let's charge it for 10 years and look at it again. I mean, 10 years itself is a long time. I think we have other contracts that we wish perhaps we hadn't left for such a long time under the terms that we left them at. The same thing could happen here. This is a perfectly reasonable bill. If you are just looking at this as a budget balancer this year, I don't think it has even been presented in that fashion. Apparently I've been reminded that I'm speaking and not being Germaine. I would urge the pending motion to be defeated.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I'm not sure where we are, but the more the good Senator from Oxford spoke the more confused I was. I'm just going to move ahead and if I'm out of order somebody will remind me.

I actually support the Chair from Penobscot and Senator Plowman of Penobscot. In the 124<sup>th</sup> I had chaired this and we had talked at length about what we would do. As we saw people's initiatives come in and as we saw things happen, we

tried very hard to set a standard up then. If you are going to open a new business, a new form of business, then everybody should be playing under the same rules. I applaud them for getting it through. We were unable to in the 124<sup>th</sup>. I fully support this as it is. It is set up and says that everybody who enters into this now enters at the same level. You can plan. When a company decides they'd like to start a racino/casino, one has the horse track and one does not and is simply slots and tables, you will have everybody working. You'll know what that plan is so you can't come to the Legislature and say, "Well, we think we want to give \$60 million a year to the education." Because everybody's in favor of education, they would say that's a lot of good money and they'll take that, but they don't fund something else. This is a set of standards of which Maine will operate on. We should have had it before anything was opened. It didn't happen and now we need to correct the mistake. That's all this does. They have taken and said that we will allow and we will wait for a company to open. We will wait for the Oxford casino before we will begin to charge. We have done everything right. This is a good bill. If you really looked at it, like it our not, it's here, people. Maine is a gaming state. We've got to accept that. Let's make sure everybody plays under the same rules. I fully support this and I would congratulate the Veterans and Legal Affairs Committee for doing excellent work. Again, I'm a little jealous it didn't happen last year, but it's a great job and I fully support this.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I rise also in support of this effort, but in light of the argument that was just made by the Senator from Penobscot, Senator Farnham, I'm a bit confused at the argument presented as to why this is okay to pass, even though I'm in full support of it. The argument that we should send all of these bills out to the people yet this one is not being. That was not the argument that was made even though this was never ever voted on, table games at the facility in Bangor. I'm very confused at the argument and wonder where the consistency is.

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

Senator **WOODBURY:** Thank you Mr. President. Senate colleagues, I'm quite pleased to follow the Senator from Penobscot. The referendum that led to the creation of Hollywood Slots I've always thought was one that passed kind of under the radar. I'd like to just read the language. There was a casino referendum at the same time. This was kind of the secondary one. The language read; "Do you want to allow slot machines at certain commercial horse racing tracks," that's at the tracks, "if part of the proceeds are used to lower prescription drug costs for the elderly and disabled and for scholarships to the State university and technical colleges?" It's really the first phrase I want to focus on. Do you want to allow slot machines at certain commercial horse racing tracks? My conjecture would be that most people reading this referendum envisioned a dozen or maybe two dozen slot machines at the horse racing tracks while the horse races were going on as an additional revenue source to help those businesses to survive and thrive, not a large independent facility operated almost entirely independent of the horse racing track, as Hollywood Slots has become. To now

make this another substantial incremental step from what Hollywood Slots is now to a full fledged casino, I really feel pretty strongly that this is the kind of thing that should go back out to the Maine people. I'm going to be opposing the motion here for those reasons. Thank you.

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

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, table games came to the state of Maine in either the 122<sup>nd</sup> or the 123<sup>rd</sup>. The bill was sponsored by the now Senator from Oxford, Senator Patrick, when he was a member of the Legislature and it allows table games in every county in the state. It's called Texas Hold Um. One hundred people can gather on any Saturday night in any local place and play table games. I'm not sure why this is such a departure from public policy. When we looked through to see how many non-profits could run this, I believe there are 27 categories of non-profits who can sponsor Texas Hold Um in your local town with no security, no cameras, and no worries, I guess, that 100 people show up with cash on the table. We have table games in the state of Maine and it's become quite successful to the point where we were asked to increase, sometime ago, how many players could come. I would dare say, 10 tables with 10 apiece, that would be an awful lot of money if we decided to ask for that fee, the application fee. Instead we let this go to non-profits. Whether you like it or not, Maine is a gambling state. It started with the lottery and then it has moved progressively. The only thing we haven't done is set a full public policy as to how this is going to be developed and brought forward. We did try very hard in the last session to make things equal. Unfortunately, we weren't able to do that this year because of the initiated bills. At this point, we have table games. They were brought to us courteously of Senator Patrick from Oxford. I think that we should probably acknowledge the fact that we have moved into that place where Missouri and Arizona and Nevada have already gone, except that we're doing it on a low key scale, but we sure are doing it. As far as I can tell, poker is poker is poker. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I'm glad the good Senator gave me the credit for the Texas Hold Um games and I'm very proud of that. There is a big difference between the Texas Hold Um game at a non-profit and table games at a casino. The Senator from York got up and basically said this was going to correct the problem. The only problem this is going to correct is it's going to change Bangor's racino into a full fledged casino. If we get down to the start of it, the Senator from Cumberland, Senator Woodbury, actually started off with the original bill. It did say a racino was supposed to be hooked up with a race track. That's what the original initiated article said. I think the ones we voted on will be hooked up to a race track. What did we, in the state of Maine, do? We actually have bent over backwards for this multi-billion dollar organization. We allowed them to open up

a small fledgling 450 or 480 slot machine parlor, which was my favorite salad bar, Miller's in Bangor. Then we got some how snookered into allowing them to have a 2,000 foot offset, which actually allowed them to move. If you figure 2,000 feet away from the race track, I can understand why they wanted that so bad. Then we just passed this year a simulcast bill. That wasn't supposed to be a big deal until I read the article in the newspaper about all the nuances on it. It's actually a huge deal and it's a huge financial deal and windfall, hopefully, for the harness racing folks. Ladies and gentlemen, this racino passed into law by the citizens of the state of Maine has been in business for 6 years. They bring in \$690 million to \$700 million per year on what I think is on the backs of middle income, lower middle income, and low income folks. Are we going to allow them now to become a casino? If you think the little non-profit Texas Hold Um games are the same as a casino, when you sit at a table at a casino it says from \$5 to \$500 per bet. Yes, the Texas Hold Um law on the books right now will allow an entry fee of \$100 for an all day event. Sometimes they take 6, 7, or 8 hours to go with the event. The thing of it is that we allowed 25% to be held by the non-profit, or if they wanted to they could put it into the pot to make it richer for those that do, and 75% has to go out to the players. Actually we made it a little bit better for them because we allowed them to run a legal 50-50 raffle and we allowed them to do two a month, which I think maybe one or two clubs in the whole state will do. We didn't allow them to be a casino because public safety didn't say they had to be watched, nor did they have the resources. As a matter of fact, I was at one event in Rumford where public safety came to oversee it. They were impressed at how good it was run. What we're boiling down to is simple. Do you want to allow a casino in Bangor without going out to the people? It's as simple as that. Do you want to allow a casino in Bangor or not? I'm not even sure how I'm going to vote on this issue because I'm actually on the report, the 11-2 report, to allow it. That's why I'm semi-perplexed at why the 11-2 report of the committee was overturned. In this Body 12-1 reports have been overturned. Actually a 13-0 report was overturned. The dynamics of this Body is just unbelievable. I guess anything goes. If you want to vote for a casino in Bangor, vote for this bill. Thank you.

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

Senator **FARNHAM:** Thank you Mr. President. Currently, L.D. 1418 is setting up the guidelines in order for a currently licensed establishment, licensed for slot machines, to be able to add table games. Currently there is no business that has applied for this. This is establishing the guidelines. To answer one of the questions, yes, the committee did feel that the hosting municipality should hold an election to determine whether or not this should be added. The other point I'd like to remind us of is that, as has been mentioned, the committee would have liked to have done a comprehensive guideline bill for all of the gaming had they ever had the chance to get out in front of it. We've always had the citizen initiated bills in front of that committee. I learned from the long time members like Senator Patrick and Representative Valentino, that committee has always been trying to establish these guidelines, but because the citizen initiated bills that existed, anything the committee would do would compete with what was brought forth by the citizen initiated petition bills. That's why the State and the Legislature has not been able to get out front. Finally, I'll just let you know that under the good

guidance of some of the long time members of that committee, we did agree to carry over a bill with that hopes that at some point in time, when we determine what is going to exist in this gaming world of ours, we will be able to finally get a comprehensive look and look at it under the guideline or vehicle that the committee has carried over. Once we establish what's going to be in place, absolutely, we'd love to look at everything in that way. For now, we'd like to get ahead of and provide some guidelines in the event that one of these facilities already licensed would be able to add table games.

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed as Amended by Committee Amendment "A" (H-522), 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 (#248)**

YEAS: Senators: BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, FARNHAM, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SULLIVAN, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, COLLINS, GERZOFSKY, HASTINGS, HILL, PATRICK, RECTOR, SNOWE-MELLO, THIBODEAU, THOMAS, WOODBURY

EXCUSED: Senators: DILL, GOODALL

21 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 2 Senators being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-522)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later (6/10/11) Assigned matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act Regarding Establishing a Slot Machine Facility"

I.B. 1 L.D. 985

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-436)** (2 members)

Tabled - June 10, 2011, by Senator **COURTNEY** of York

Pending - **FURTHER CONSIDERATION**

(In House, June 6, 2011, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-436)**.)

(In Senate, June 9, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, June 10, 2011, that Body **INSISTED**.)

Senator **FARNHAM** of Penobscot moved the Senate **RECEDE** and **CONCUR**.

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

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I stand in support of this initiative, this measure. I think that fair is fair. Last week when people voted for Biddeford and they left Lewiston out, I must admit that I ended up with casino envy, as you might call it. I believe in equal treatment for everybody in this arena. Even though I struggled with those votes in the beginning because I'm not a gambling person, I think that Lewiston, as well as Washington County and Biddeford, did their due diligence to set up the foundation for the gaming facilities that they want to develop. I am standing in support of my constituents who had voted 2-1 in favor of a casino in Lewiston. I hope that you will follow my light in support of this motion. What's good for one area of the state is good for another area of the state. I thank you for your support.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise once again in support of this measure. I'm asking that the Senators show fairness in allowing Lewiston to have a chance at a casino. I say let the free market work. Let Lewiston go through the process of seeing whether it is feasible. Remember, if the investors feel it is too great a risk it simply won't happen. In light of the various proposals that are advancing in our other communities, I believe it's only fair to give Lewiston their opportunity. I'm asking you to join the Senator from Androscoggin, Senator Craven, and I in supporting L.D. 985. Thank you.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll try to be brief. This is not the same situation that we dealt with the other night. It's being characterized as being similar to the other casino that we dealt with a little further down, but it isn't. Some points. The other night we heard how the other casino was going to help save the harness racing industry. I don't think that's even on the table

here. This is a straight casino. We heard how the other casino had a well-known, well respected, well financed developer. This project has nothing behind it but 50,000 or 60,000 signatures. There is no developer that I'm aware of that has stepped forward. This project is 17 miles away from the Oxford location. Those Maine people in Oxford have now invested \$7 million dollars in that process. Do we think that two of these facilities will survive within 17 miles of each other? I seriously doubt that. What do we tell those people in Oxford that have spent \$7 million to create hundreds of new jobs in Oxford County? What do we tell them? We're going to give them a chance. This should be given to the people to allow them to decide if they want to try to put one more facility within 17 miles of the one that's already been approved. Ladies and gentlemen, at least one of them is doomed. There is not the capacity. Do any of us think there is the capacity for two casinos within 17 miles of each other in that area of Maine? Let the people decide this. This is not the same situation whatsoever. I urge that you oppose the pending motion. Thank you very much.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, now that we're a casino state we're going to be a casino destination, just like Las Vegas. The more casinos, the more people are going to show up to play in our casinos. The free market will either have them float or have them sink. I think that here we go, yet again. Everybody deserves something except Lewiston. We used to have a representative here in the Legislature that was always upset at how Lewiston never gets its share. He used to say to me, "Watch the news sometime and you're going to see the weather forecast man say Bangor and then Portland. We never get any updates on our weather at all because most people think we don't even exist." That's what it makes me feel like when people talk about a casino in Oxford and a casino in Biddeford and a casino or racino in Bangor. I think the free market is the place that this is going to take place. If the free market decides that Lewiston can't afford or can't support or maintain a casino then that's who should decide it. I think that when we talk about business and we talk about making decisions about whether the measure should go out to the voters or whether the measure should be voted out of the Legislature, then we should be consistent about it. It should be either sending it out to the voters or voting it and be consistent about the votes out of the Legislature. I would appreciate your support of this measure. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I actually have about a 37 minute speech, but I'm going to boil it down to just a couple of minutes. We talk about fairness and consistency. The consistency is out the window because for years they have voted against casinos and racinos and are now voting for them. The fairness, well, how did we get here? I will ask you; who remembers the original referendum? The original referendum was put in by a guy from Las Vegas and, as far as I'm concerned, was basically a little bit on the underhanded side. I think I called him a crook last time. What did he do? He had enough money to

get the signatures and get it on the ballot at the same time that a tribal nation was going to have a casino. People hate casinos versus racinos. Casinos said nothing about helping horses but the racinos were going to help horses. That's kind of why I voted for it. Basically, the good Senator from Oxford talked about is the plan viable and is the backer financially sound, who would run the casino and a myriad of other questions. I asked the same things. That's actually what Sean Scott came here to do. What did Sean Scott do? Is he the owner of Hollywood Slots? What did he do with his idea? He sold that idea and ended up, I think, going to court when things had all settled. His idea netted him \$75 million. I ask you, with what we have in store at Lewiston, is anything ready otherwise in the ability of some people behind the scenes able to sell their idea to a Las Vegas developer for probably \$5 million or \$10 million and become rich. I think this is probably the idea. One little story I told you last week. Basically, Friday I told you I was headed to Hollywood Slots. Guess what? I did. I took my wife and met my son, daughter, and son-in-law. When we went there I asked my son-in-law, who is 26 years old and a pretty bright kid, a businessman, "Justin, I'd like to have you do one thing for me. I'd like to have you size up the customers at Hollywood Slots and I want you to let me know when you get done are they affluent, are they middle income people, are they lower middle income people, or do you actually think they look like a lot of poor people." We had fun. Some lost. Some broke even. I actually honestly can say I made \$51. For the family, we ended up losing, but I knew we would anyways. At the end, when we were heading out, my wife had to stop for a health break. I asked him, I said, "Justin, you walked around like I did. You sized up everyone there. Who was the clientele at this place?" He looked at me, unequivocally, and said, "Mr. Patrick," he doesn't call me Dad yet, "I actually probably think you are the richest person here." He said, "I think most of these people are lower income people and some of them probably even poor." That's the idea about the proliferation of gambling. I like gaming because I can afford it. I only go once in a great while. Hollywood Slots three or four times a year. I might be able to justify that I might even go a little bit more because I have my little card and it is all electronics. We only spent \$30 apiece, which is plenty for me because I have a decent income and have done well in life, but so many of those folks there cannot afford that. Like I said before, July, August, and September we'll get those out-of-staters in there and let's bilk them as much as we can. In Calais, let's get some of those Canadians down and get their money. The other 9 months of the year where is the \$3.5 billion coming out of? It's coming out of people's ability to buy drugs, to buy oil, or to pay their mortgages. There have been plenty of studies done about what this actually does. Ladies and gentlemen, throw caution to the wind. Let 'er rip. Vote Recede and Concur and get as many casinos in as you can because, hopefully, from this point on I think every year there's going to be more and more casinos. We're going to be like that one state that has 17 of them. The good thing about them is that they all aren't going to be huge. They are going to be small Mom and Pop ones with maybe 100 or 150 slot machines. Hopefully, one in Aroostook County area. We're going to have them all over the state and the economic development dollars that go with a casino are none. Once they dry up, once you build the beautiful building, there are no economic development dollars there. Let's have fun. Let's get as many casinos as we can. Let's show our inconsistency and let 'er rip. Thank you, ladies and gentlemen.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I would first like to apologize, Mr. President, for standing up because I know that we've beaten these points home quite a bit, but I feel like I need to stand up and say something. I completely, 100%, agree with the Senator from Androscoggin, Senator Craven. She is 100% correct when she says that the free market will decide what's going to happen with the casinos in Maine. The process that we are using to establish gaming in Maine is broken. Folks, this is sausage making at its finest. We have a policy committee that deals with gaming. L.D. 1203 and L.D. 985, from what I understand, were unable to be amended. The choices were to accept it as it is or send it out for a vote. On this matter the Legislature has decided otherwise on L.D. 1203. I'll share a little story. When I was working for a hockey team, not to be mentioned, it always made me so angry when another hockey team from Portland would get a sponsor that we didn't get. I would use that same line, so I feel you. I say that to say that we need to put Lewiston on the same footing going forward that we have put Biddeford and Washington County. It's only fair. The question that we need to be asking right now on these bills is not whether Maine is a gaming state or not. We are. We have a casino in Bangor. We have one on the way in Oxford. We have potentially three more by the time we get out of here tonight. We are creating a disaster, a patchwork of laws for casinos. We should allow our VLA committee and the good chairman from Penobscot to do what they have been entrusted to do. We need to create a uniform set of rulemaking for establishing a casino in Maine. We need to get this under control before it gets any further away from us. Mr. President, I would urge the members of this Body to go along with the Recede and Concur motion because we need to make sure that the Legislature is fair on both of these bills and allow the Chief Executive to make the decision that he will. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Recede and Concur. 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 (#249)**

**YEAS:** Senators: CRAVEN, DIAMOND, FARNHAM, JACKSON, LANGLEY, MARTIN, MASON, SAVIELLO, SCHNEIDER, SNOWE-MELLO, SULLIVAN, TRAHAN, THE PRESIDENT - KEVIN L. RAYE

**NAYS:** Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, GERZOFKY, HASTINGS, HILL, HOBBS, KATZ, MCCORMICK, PATRICK, PLOWMAN, RECTOR, ROSEN, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY

**EXCUSED:** Senators: DILL, GOODALL

13 Senators having voted in the affirmative and 20 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **RECEDE** and **CONCUR**, **FAILED**.

The Senate **INSISTED**.

The Chair laid before the Senate the following Tabled and Later (6/13/11) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives"

H.P. 972 L.D. 1326

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-429)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-430)** (6 members)

Tabled - June 13, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)** Report, in concurrence (Roll Call Ordered)

(In House, June 8, 2011, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)**.)

(In Senate, June 9, 2011, Reports **READ**.)

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I was the last to speak on this bill and I am glad that the Senate President chose me first because I'd like to be the first. For those that don't remember, I had hoped that we could do something a little different than to vote on this today. I had some discussions and I had no support to do what I wanted. Today, I need to vote on this bill. For me, it's been one of the more troubling bills of the session on how I was going to vote and I'd like to just put on the record why I'm going to vote this way. I hope that people here appreciate it. For those that know me, you know that I fought for 10 years to establish our Government Oversight Agency, OPEGA. I'm very proud of that. I have a reputation for being a person who wants transparency in government. I know that transparency and accountability is a big piece of this bill. For me, voting against this bill would be against what is ingrained in me and what I've done over the last 10 years. On the other side of this, I have a decade long relationship with the teachers' union and teachers as a whole. The last 24 hours have been very, very unpleasant for me, thinking about having to



choose between that wonderful relationship and this bill. I'm hoping that the people, when I cast my vote, will appreciate the fact that friendship had to come secondary to my job here as a State Senator. I think the right thing to do is to always vote for transparency in government and I will live with the consequences. Thank you.

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Senate at Ease.

Senate called to order by the President.

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Senator **TRAHAN** of Lincoln requested and received leave of the Senate to withdraw his request for a Roll Call.

On motion by Senator **WHITTEMORE** of Somerset, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-429)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-429) **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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All matters thus acted upon were ordered sent down forthwith for concurrence.

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On motion by Senator **COURTNEY** of York, **ADJOURNED** to Wednesday, June 15, 2011, at 10:00 in the morning.