

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

In Senate Chamber
Thursday
June 9, 2011

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

Prayer by Senator Garrett P. Mason of Androscoggin.

SENATOR MASON: Good morning everyone. Let us pray. Dear Heavenly Father, Lord, we thank You for this day and we thank You for the great opportunity that we have to live in the great state of Maine. God, we thank You that we're the people that get to represent all of our constituents and our state as a whole. God, we ask You that as we approach our last week of legislative session that You will give us guidance and knowledge to do the right thing for the people of our state. God, we also bring before You our colleague, Senator Seth Goodall. Lord, please bless his family during this bittersweet time. We pray You will be with him over the next few weeks. God, we pray that You will give us the wisdom that only You can give. We know that we can't do this without your help. We ask this in the name of the one who came to save us, Jesus Christ. Amen.

Pledge of Allegiance led by Senator Christopher Rector of Knox County.

Reading of the Journal of Wednesday, June 8, 2011.

Off Record Remarks

PAPERS FROM THE HOUSE

House Paper

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

Presented by Representative TREAT of Hallowell.
Cosponsored by Senator McCORMICK of Kennebec and Representatives: BERRY of Bowdoinham, FOSSEL of Alna.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Comes from the House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed.

REFERRED to the Committee on **STATE AND LOCAL GOVERNMENT** and ordered printed, in concurrence.

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.

COMMUNICATIONS

The Following Communication: S.C. 433

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

June 8, 2011

Honorable Joseph G. Carleton
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Carleton:

In reference to the action of the Senate on June 7, 2011 in which it Insisted and Joined in a Committee of Conference on L.D. 1167, "An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents" (H.P 865) I am pleased to appoint the following as conferees on the part of the Senate:

Senator Ronald F. Collins of York
Senator David R. Hastings of Oxford
Senator G. William Diamond of Cumberland

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Kevin L. Raye
President of the Senate

READ and **ORDERED PLACED ON FILE.**

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **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

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-429)**.

Signed:

Senators:
WHITTEMORE of Somerset
SNOWE-MELLO of Androscoggin

Representatives:
RICHARDSON of Warren
FITZPATRICK of Houlton
McKANE of Newcastle
MORISSETTE of Winslow
PICCHIOTTI of Fairfield

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-430)**.

Signed:

Senator:
BRANNIGAN of Cumberland

Representatives:
BEAUDOIN of Biddeford
BECK of Waterville
GOODE of Bangor
MORRISON of South Portland
TREAT of Hallowell

Comes from the House with 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)**.

Reports **READ**.

On motion by Senator **WHITTEMORE** of Somerset, **TABLED** until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code"

H.P. 1042 L.D. 1416

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-553)**.

Signed:

Senators:
THOMAS of Somerset
COLLINS of York
SULLIVAN of York

Representatives:
COTTA of China
BOLAND of Sanford
CELLI of Brewer
HARVELL of Farmington
KAENRATH of South Portland
MOULTON of York
TURNER of Burlington

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

Signed:

Representatives:
BOLDUC of Auburn
CASAVANT of Biddeford
GRAHAM of North Yarmouth

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-553)**.

Reports **READ**.

Senator **COURTNEY** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate

Divided Report

The Majority of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve, To Authorize the State To Purchase a Landfill in the Town of East Millinocket
S.P. 500 L.D. 1567

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

Signed:

Senators:
SAVIELLO of Franklin
SHERMAN of Aroostook

Representatives:

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

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

Signed:

Representative:

INNES of Yarmouth

Reports **READ.**

Senator **SAVIELLO** of Franklin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

HELD MATTER

Bill "An Act To Amend the Laws Pertaining to High-stakes Beano" (EMERGENCY)

H.P. 418 L.D. 535
(C "B" H-402)

(In House, June 8, 2011, Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402)** **READ** and **ACCEPTED** and the Bill **PASSED TO ENGROSSED AS AMENDED BY COMMITTEE "B" (H-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-498)** thereto.)

(In Senate, June 8, 2011, Report "**B**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402)** **READ** and **ACCEPTED.** Committee Amendment "**B**" (H-402) **READ** and **ADOPTED**, in **NON-CONCURRENCE** and the Bill **PASSED TO ENGROSSED AS AMENDED BY COMMITTEE "B" (H-402)**, in **NON-CONCURRENCE.**)

On motion by Senator **FARNHAM** of Penobscot, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402)**, in **NON-CONCURRENCE.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "**B**" (H-402), in **NON-CONCURRENCE.**

On further motion by same Senator, House Amendment "**A**" (H-498) to Committee Amendment "**B**" (H-402) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "**B**" (H-402) as Amended by House Amendment "**A**" (H-498) thereto, **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-498) thereto, in concurrence.

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

COMMUNICATIONS

The Following Communication: H.C. 194

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

June 8, 2011

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

Dear Secretary Carleton:

The Speaker appointed the following conferees to 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).

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

Sincerely,

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

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs"
H.P. 1147 L.D. 1562

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-586)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-586)**.

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

READ ONCE.

Committee Amendment "A" (H-586) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Regulate the Licensing and Oversight of Professional Investigators"
H.P. 1148 L.D. 1563

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-585)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-585)**.

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

READ ONCE.

Committee Amendment "A" (H-585) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Encourage Fishing for Individuals with Disabilities"
H.P. 825 L.D. 1113

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-382)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-382) AS AMENDED BY HOUSE AMENDMENT "A" (H-505)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-382) **READ**.

House Amendment "A" (H-505) to Committee Amendment "A" (H-382) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-382) as Amended by House Amendment "A" (H-505) thereto, **ADOPTED**, in concurrence.

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

The Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Encourage Prompt Payments by the State When It Contracts with Outside Agencies"
H.P. 912 L.D. 1221

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-389)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-389) AND HOUSE AMENDMENT "B" (H-594)**.

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

READ ONCE.

Committee Amendment "A" (H-389) **READ** and **ADOPTED**, in concurrence.

House Amendment "B" (H-594) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **TAXATION** on Bill "An Act To Amend the Farm and Open Space Tax Law"
H.P. 848 L.D. 1142

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-580)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-580)**.

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

READ ONCE.

Committee Amendment "A" (H-580) **READ** and **ADOPTED**, in concurrence.

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

Senator:
GERZOFKY of Cumberland

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Fully Enfranchise Voters"
H.P. 1087 L.D. 1478

Representatives:
BLODGETT of Augusta
CLARKE of Bath
HANLEY of Gardiner
HASKELL of Portland
LAJOIE of Lewiston

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-508)**.

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-422)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508) AS AMENDED BY HOUSE AMENDMENT "A" (H-566)** thereto.

Reports **READ**.

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

Senator **MASON** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

READ ONCE.

Committee Amendment "A" (H-508) **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.

House Amendment "A" (H-566) to Committee Amendment "A" (H-508) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-508) as Amended by House Amendment "A" (H-566) thereto, **ADOPTED**, in concurrence.

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

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

Divided Report

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

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act Relating to Concealed Firearms Locked in Vehicles"
H.P. 28 L.D. 35

Senator **BARTLETT:** Thank you Mr. President. I rise in opposition to the pending motion. To me, this comes down to core property rights. We should not be telling owners of private businesses what they can and cannot allow on their property. The thought that we can tell somebody, who may have 100, 200, or 300 employees, that they can't bring a gun on their property. The fact that we can tell them to take away their rights to do that, to take away their property rights and their safety concerns on their own property, to me, is wrong. We should simply let private businesses decide the best practices for those businesses and refrain from imposing arbitrary requirements on them. Thank you, Mr. President.

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-422)**.

Signed:

Senators:
MASON of Androscoggin
WHITTEMORE of Somerset

Senate at Ease.

Representatives:
PLUMMER of Windham
BURNS of Whiting
LONG of Sherman
MORISSETTE of Winslow
SANDERSON of Chelsea

Senate called to order by the President.

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

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

Signed:

Senator **CRAVEN**: Thank you Mr. President. Men and women of the Senate, I just wanted to say that I do honor and respect people's private property. I must have gotten about 89 e-mails from members of my local chamber encouraging me to vote in opposition to this bill. I certainly agree that people shouldn't have weapons at work or available to them and that we should preserve the rights of property owners and employers. I would ask that you defeat this motion. Thank you, Mr. President.

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

Senator **GERZOFSKY**: Thank you Mr. President. Ladies and gentlemen of the Senate, I also stand up in opposition to this motion. It's kind of like the clash of two titans. I'm in a unique situation where I get a bad rating from both of them. In my company if I said no alcohol allowed in the property or on the property, I guess I might have an issue with that, but it is a company policy and everybody had to live by it or they didn't have to work for me. The same issue is here. It's a private property issue. If a company has a policy that either it wants to have guns or not, it's their discretion. It should be, anyways, up to that company. I believe that here in Maine we have a great tradition of respecting that. I think here in Maine if a company, say Toys R Us, on a couple of acres of land, they have a business on it, if they choose to have a company policy that says no guns allowed on our property, they should be able to say that. It's a business decision. I think if a company feels otherwise, that you can have a gun locked in the trunk of your car, hidden away, that's their company policy. They should be able to do it. I'm standing here today against this motion knowing that this debate's going to play out. We're going to do it in a calm, mellow sort of way because we have a great clash of the titans, I call it. Is it the NRA or is it going to be with gun rights? They say the 2nd Amendment. The 2nd Amendment has open-carry. Don't forget, we're not talking about open-carry. Is it going to be personal property rights and businesses? Are we going to stand on the side of business and be business friendly or are we going to stand on the side of hiding guns in places they are not wanted? Ladies and gentlemen, thank you very much for this quiet moment.

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

Senator **MASON**: Thank you Mr. President. Men and women of the Senate, I just wanted to rise in support of the motion. This bill is simply allowing employees to carry a weapon inside their car. You cannot bring a weapon into work. The company can still have the policy that you cannot enter their building with a gun. That does nothing to that. Also another point I'd like to point out, just a conversation I've heard around the Capital is that this could apply to schools. It cannot. We have federal law, the federal Gun Free School Act that does not allow guns on school property. Thirteen states have this law and it's held up in those states. One more thing I'll mention, I'll be quick on this, this has nothing to do with carrying. Nobody's carrying a weapon. It's in their car. It's locked away, unseen, and it has nothing to do with open-carry or concealed-carry. It's strictly about a vehicle. Thank you, Mr. President.

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

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, I had to get up on this because I can't believe this is not, obviously the NRA supports this, an NRA issue. This is a personal freedom issue, as far as I am concerned. My car is parked over there on the other side of the State Library. If it had been hunting season there is probably a good chance that I would have my 410 in the trunk of it. If I had to come down here and for somebody to say that I can't have that gun in my car, it is unbelievable. That car is my car. As long as I'm not doing anything to hurt anyone else I believe that car has some special rights just like my home does. You have to have a warrant to search it. I certainly understand people's fears and stuff like that because we talked about yesterday how bad people do bad things regardless of what we do here in this building. We were just talking, in the postal service, I believe, you can't carry guns there, but look at all the trouble that they have. Again, I don't know how many people this is going affect needlessly because we are a state that has a hunting tradition and there are going to be people that's going to have guns in their vehicles just because that's that way they've always done it. For no reason at all they are going to go to their place of business, and get out and want to go to work just like they did every other day, and get in trouble for reasons I really can't understand. I am certainly supporting the Ought Not to Pass on this and would encourage everyone else because, again, this is going to cause a lot of problems.

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 somewhat confused as we sit here, not about what the bill does. I clearly understand that. When I apply for a job, I'm told what the expectations are. I may have to be drug tested. I had to be fingerprinted to be a teacher way back, when I had been teaching something like 15 years or 14 years, and lived in the same community all my life. They knew my history better than I knew my own at times. I wanted a job and that's what I needed to do. It was as simple as that. These are businesses. We talk about business friendly. We talk about coming to Maine and not having restrictions put on our businesses because we're going to remove those. We just did a great job with L.D. 1. Thank you, Mr. President, for that. We're trying to make it easy. Now we have the business community saying, "Look, we have a parking lot. That's our property that you're on. We're giving you a job. We're paying you fairly. We're telling you not to bring a gun." Unfortunately, in this world and in this city, more of this has happened. We even call it going postal now. Somebody gets angry, not that this would ever happen in this Chamber, but somebody would get angry and during lunch, or going out to have a smoke somewhere because, again, the businesses have a right to decide if you can smoke on their property or not, and then go out and get a gun and decide to blow away somebody that they didn't like right then. It's about businesses. I've been approached by the representative of a business here that has been written as one of the best places to do business. They are asking for this. They are saying, "You want me to come to Maine. You want me to invest in your people. Now you are telling me I can't even make the rules for my company that I want to run." You can't have it both ways. You can't have it both ways. It's especially true the denser the population. Drugs are a major problem.

People do stupid things without drugs. You add drugs and people do more stupid things. I'm concerned. I would ask you to oppose the pending motion. I don't do stupid things, by the way. I would ask you to please oppose this motion, go with our businesses that are coming here and putting their faith and putting their dollars. I ask you, who's responsible if somebody on a property does go out and shoot someone? Is it the company, who tried to get a policy? Is it the State of Maine who refused to allow them? How does the insurance play on that? Who's responsible? Who took diligent care in making sure no one was hurt? Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Whittemore.

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't think there is anybody here that's naive enough to think that throughout this country, or throughout this state, there are several parking lots who are not allowed to have guns in cars and there are, in fact, guns in the cars. I think this bill, if you think about it for just a second, is more for the protection of those licensed carriers. I'm a licensed carrier. If I drive to Portland and I'm carrying and I drive into a parking lot, I don't know if the mall allows them in their parking lot or not, do you think I'm going to stop and say, "Okay, I'm going to go all the way back home, leave my gun at home, and then drive back to the parking lot." It's, in my opinion, one of the aspects of this bill is to protect those people who are licensed to carry. It gives them the opportunity to secure their weapon in their vehicle. It needs to be out of sight. I think that's a big part of this bill. I ask that you support it. 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'm kind of scared to get up here because every time I do the bills go down in flames. My winning percentage is very low at this point. What I want to do is say that I work in the paper industry. We have around 900 to 1,000 employees and the parking lot is probably close to one-quarter of a mile long. It's amazing because most paper industries are along the river. The side of the parking lot that's on the river belongs to the town. The side of the parking lot opposite the other side belongs to the company. During hunting season I have hundreds, if not thousands, of constituents that are hunters. We do have a rule that if you do have a firearm on company property you are going to be terminated. Hunting season you see all the trucks lined up with the guns in the windows. If they make a mistake and happen to forget they've got their gun and park 50 feet away across, on the company side, they are in violation and they will probably be terminated if they forget it. I don't see the difference. If someone's going to go postal they are going to walk across the street versus going on the river side. The gun is in the same place. It is 50 feet away. This is one that just befuddles the heck out of me because if people are going to go postal they are going to go postal. If someone in the paper industry wants to go postal they are going to come out to go to the river side. They are going to be smart enough to do that, I think. I have no problem. When I grew up in high school back in the 1970's, early 1970's actually, I remember kids bringing their guns, shotguns, in October and putting them in

their truck. You get out of school and you go bird hunting. In November you'd go deer hunting. I know the world is a lot crazier now, but it's still the bad people doing bad things. I actually, for the first time in my life, spoke on a gun bill. My rating for the NRA is probably a lot better than with the Maine State Chamber of Commerce, so I'm going to be going green on this one. Thank you, ladies and gentlemen.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't think I've ever got up and spoke about a gun bill. I do know that my NRA rating is zero and my Chamber rating is probably, I think I got into the double digits last year. I'm very excited about that although the City of Portland is very worried about me, being around 12%. What I hear is this is one of the classical fights of individual rights. We have got private property rights and gun rights. I don't know how the chamber's going to come down on that, but what I do know is that guns are dangerous. I also know that for the second day all of our papers, or most of our papers, across the state are covering another gun death in Farmington, Maine. A death that could have been avoidable. Now we have lost a person here in the state of Maine. I also know that some of the biggest employers in the city of Portland are dead against this bill. Dead against this bill. They don't like the bill. They didn't like the bill when it came out. They don't like the bill now. They don't like the bill if it gets passed. Finally, I find it incredibly interesting that this exemption was put into the bill. Mystifying. I quote, "The bill was amended to add language that supposedly shields an employer from liability from civil actions in the event an employee is injured or killed by a fellow employee or another individual with a gun or weapon." We're acknowledging that guns are dangerous. We're acknowledging that if guns are there we might have deaths, but we've created this exemption so I guess, folks, go green. Good luck. Thank you, Mr. President.

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

Senator **MASON:** Thank you Mr. President. I was just going to point out that this bill does have an immunity clause, but the Senator from Cumberland, Senator Alford, did that for me. The other fact that I would want to bring up to you is the fact that I think it's very difficult to compare the right to buy cigarettes and alcohol to a right that is enshrined in our Constitution in the 2nd Amendment. I think it's very different. Also I'd like to address the point that guns are dangerous. I'm going to repeat a bumper sticker. Guns are not dangerous; it's the people that use them. That's the problem, not the guns. I would just remind everybody that the 2nd Amendment is very real. We have the right to bear arms. That's all I'm going to say. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. I have really been torn on this piece of legislation because I have allowed, or supported, people's right to carry. What is the number one reason, or the number one thing people have been saying to me as I go around? It is about jobs, the economy, and being open for

business, being business friendly. These are the things that people want. People want jobs and people want businesses to feel welcomed and uninhibited and able to grow and able to direct their place of business. It's this very interesting struggle between the business community and the gun rights folks. Then I think, "Okay, if I have a gun in my car and I then drive it onto some other piece of property, does that, all of a sudden, make that piece of property that my car sits on my property?" That's essentially what we're going to be doing here if we allow it. If we allow this bill to go through we're saying to the business community or the property owner, "You cannot determine that that is your property and you can no longer do with that piece of property what you want to do with it." It essentially becomes the car owner's or the employee's piece of property to do what they want with it. That's one thing that's really come back, resoundingly. I don't think just because somebody drives their car onto my property that that should make it their property. Looking at this piece of legislation, we need to determine whether or not that piece of property becomes the property of the person driving the car onto property and whether or not we're going to say to the greater state of Maine and to the business community, "You no longer have rights, you cannot determine this policy." That is exactly what this piece of legislation does. It says, your rights no longer exist. We, the State of Maine, are telling you that you cannot determine your business policy. I think that's the wrong message to be sending right now, folks. All of you have said, we want to be open for business and we want the business community to feel good about the state of Maine not regulating them. You should be voting red on this piece of legislation. Thank you very much, Mr. President.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, when we started this session, after a highly contentious election, I remember looking out this window. It was cold and snowy. All we talked about was jobs, jobs, jobs; business, business, business; becoming business friendly. By God, we were going to turn over every rock and stone in the state of Maine to make it happen. It's 80 degrees outside, bright and sunny, and all we're debating in this Chamber is abortion, voting, and guns. None of those three things are what we ran for. We ran, we got elected, on trying to do something about the economy. Now we want to tell businesses; you move into the state of Maine and we're going to tell you what you can and cannot do with your property. That's really not what we ran on. We're not talking about the 2nd Amendment, which said you have the right to bear arms. We're talking about being able to hide guns in the trunk of your car and bring it into a business that has made a company decision, a company policy, not to have that happen, for whatever reason they choose. Ladies and gentlemen, let's remember what we talked about when we got here and what we were going to try to do something about. Attracting businesses. Making it business friendly. Not throwing roadblocks up. We didn't come in here, and we didn't run, to come and talk about voting, abortion, and guns. That's what we're doing. That's all we've been doing for the last couple of days. I think it's kind of misleading to the voters because they are wondering why we aren't taking care of the people's business of creating jobs and a decent economy and working with our

businesses. Ladies and gentlemen, please vote against this motion, the pending motion, and do something for businesses.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I have a place of employment and the guys that work for me, if I told them they had to take their guns out of the back window of their pick-up and put them behind the seat, there are probably some of them that would go home because they are there so they can go hunting. God help the guy that touches them. We talk about a business place being private property. I hope later on this afternoon people are as concerned about private property and property rights as they are now. I'm thinking about all of the people I have to let on my job site. OSHA, the Department of Labor, all kinds of people that can just show up, unannounced. They're going to tell me what I can and can't do. Heaven forbid if somebody breathes some second hand smoke at my job site. Heaven forbid that we stand around after work is over and have a can of beer and somebody gets hurt. I'm going to be in real trouble. The idea that someone can't have a concealed weapon in their car, out of sight; they may be going hunting after work. I've done that a lot. I can remember in high school I brought a convertible to school. We were taking the top down and the shotgun got tangled up in the roof mechanism. I didn't get in trouble. There was no ill intent and it wasn't a problem. I'm going to be voting for this. I think this is a good bill. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Men and women of the Senate, I kind of view this bill as just kind of a matter of safety. All my life I've kind of been told when I was young, and still believed, that you learn something new every day. Just yesterday I learned that if we simply place a sign in front of a council chamber room that says no firearms are allowed, people will feel safe. Today I'm hearing that if we simply put a sign in front of a parking lot that says no firearms the business can claim they provide a safe working environment and the employees will feel safe. Ladies and gentlemen, if this is true and if this works let's all go home and put a sign on our lawns that says no firearms allowed and our families will feel safer, there will be no more armed home invasions. Ladies and gentlemen, I'm in support of this current motion. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. What we are dealing with here is, as has been said before, competing interests, competing rights. We know that private property owners have constitutionally protected rights under the 5th Amendment of the U.S. Constitution. What we are talking about now is interfering with that right. The question is; what is the compelling reason to do so? What is the compelling public policy for us to do so? What I've heard is that the reason to do it is because of competing constitutional protection, the 2nd Amendment, the right to bear arms. It is simply because there is that 2nd Amendment right to bear arms that this should take

precedent over all the other constitutional rights. I have trouble understanding that is a compelling rationale when you look at the fact that an individual loses their 1st Amendment protections when they go to work. They don't have constitutional protected free speech rights while they are working for their employer, their private employer. They give those up because it is determined that the employers' rights and their privacy interests and their business interests are paramount in that circumstance. Why is it that the 2nd Amendment is so much more important than the 5th and the 1st Amendment? They can tell me I can't have a bumper sticker on my car and park it there, but they can't tell me I have to leave my gun at home. I just don't get it. In my perspective, at a minimum, the 1st Amendment is on par with the 2nd. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would just, I guess, question the fact that the bumper sticker on the car is visible whereas the gun is supposedly inside the car, out of sight. I'd have to question that. I've said this before and been taken to task, I'm not a lawyer and I didn't sleep at the Holiday Inn last night. Does law enforcement not have to have a search warrant to get into your vehicle? Can't you say no and the only way they can search your vehicle is by getting a search warrant? If we do pass this and it's no guns allowed, then where does that end? We got rid of the guns, then it's knives. We got rid of that, then it's jack handles. Then we get rid of that, then it's bowling balls. That would really hurt me a lot right now. I got 207 last night. I don't see how it's really, like the good Senator from Kennebec said, going to make people more safe. If it comes to be that it's such a problem then people are going to be able to get a gun, especially in a place that doesn't have any security. This is just going to harm the people that aren't doing anything wrong, law abiding citizens of the state of Maine. I would ask that you support the motion.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I really didn't know which way to go on this and am still thinking about it to some degree, but I've sponsored and co-sponsored gun bills in this legislature for a long time. I'm not one that thinks guns are dangerous and we should really be shivering and shaking every time we see one. In fact, I've got 8 or 9 of my own. I have a concealed weapons permit. Had one for years and years and years. I've also been a businessman for 30 years, since 1980. Something about this that just goes to the core and is kind of chilling to me, as a business owner and a gun supporter. It goes to the core of saying that really it is my business and if I want a policy that says there are no guns it's my business and I should be able to do that. Again, it's not because it's some hidden agenda that I'm concerned or afraid of guns or gun people because I'm one of them. At this point it just seems that it does strike a nerve that says we're going a bit far if we're telling our private business people they can't have their own policies. My sense is that is wrong. Thank you, Mr. President.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I'm also very conflicted with this. I've listened to the debate very carefully and when I sit down I'm probably going to make up my mind. I guess I've listened to the debate and I've been told how to vote. I've listened to the conversations about how all we do in the Senate is debate guns and abortion, which I don't believe we debated any abortion bills yesterday, and how this is the focus. I think it's a good talking point out there and I want to correct it, on the record. It's been the focus of Republicans, these issues. These issues, many of us have differences of opinion. I respect everybody's opinion in this room. I really want to correct the comments that this is the focus of any political party. With your permission, Mr. President, I'd just like to capture some of the things that we've done already. We've taken a step with regulatory reform. We have worked on health insurance reform. We're in the middle of working together on a budget that will likely include tax relief, pension reform, welfare reform, and a budget that will truly preserve the safety net that we all care so much about. I just want to make sure that we keep the focus on the issue in front of us and try to stay away from some of these political talking points with regards to what one's agenda might be. Thank you, Mr. President.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, our society seems to be obsessed with guns. I think that traditionally Mainers have been practical about their gun use. They've used them for hunting or collecting or whatever it is people do with guns. Our society has become so desensitized about gun ownership and taking guns to work and playing with guns. What struck me when the Senator from Cumberland, Senator Alford, talked about the young person that was killed this week in Farmington, that there was a person dead. Actually there are two families that are ruined. The young person's family who was killed and the young person's family who did it. My heart goes out to all of those people who have to live the rest of their lives with that tragedy. That tragedy happened because those young people are so desensitized at the use of weapons and just playing with them and thinking that they can dance with their weapons flipping from hand to hand. It's odd to say that in such dire circumstances because of what those families, and their friends as well, are suffering. I am not conflicted at all about opposing this measure for various reasons. I have a zero rating with SAM and a zero rating with NRA, so I'm not going to get any further down there. I'm certainly hoping that I can keep my standing with my local businesses and let them know that I am on their side and that I respect their ownership of their property and their right to direct all of what happens in their institutions and in their businesses. Thank you, Mr. President.

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've put a lot of thought into this because many of you who, over the years, have served with me and understand that I am very pro-business. I fight for the rights

and the causes to create a strong economy and to help our businesses out. This time I think I have come to the conclusion that our rights as individuals and our right to own and bear arms and to be safe trumps the other. In law there is a term called curtilage. Lawyers are probably a lot more familiar with this than I am, but I'm going to try to explain it. What is in your house, what's around your house, and what's directly in your house is your property and you shall feel safe and secure in that property. Same thing goes with your vehicle. Your vehicle also is a part of that curtilage and you shall feel safe and secure. That is your property. As you go traveling throughout the state you need to feel safe and secure. There are many, many workers at these businesses that have to commute at odd hours; early, early in the morning or late, late, late at night. They have long distances they have to travel. They feel safe and secure with that weapon locked in their trunk in their vehicle. The same goes for on a business property. I feel there is no harm for that weapon or that gun to be in that vehicle, locked safely and securely. It is about our rights as individuals. I think that trumps a business. I do think that in this piece of legislation they tried to address the liability, the concerns, of that business owner. I am going to support this legislation and I still believe myself very pro-business. I think that we've done some amazing things this year to help our businesses and to help the economy be stimulated and grow and get Maine in the right direction. I think it's extremely crucial that we also protect the rights of our citizens across the state. Thank you.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll give you a little background about myself. I grew up in the 1960's, a generation before the good from Oxford, Senator Patrick. Believe it or not, and I know it will be hard for many of you to believe this, when I was in high school we had a firing range in the basement of the school. They also taught hunter safety. That's no longer the current condition at that high school. It goes to show you how through the generations things have changed. When I grew up my family had guns in every corner of the house. We were taught at an early age to respect firearms and to use them accordingly. This bill is about gun ownership and I'll be supporting the legislation primarily from the standpoint that I feel we're in a rural state. By the way, the state of Maine has traditionally always had one of the lowest crime rates in the nation. Statistically, per capita, Maine has always ranked one or two in the highest per capita ownership of firearms in the United States. Is there a connection? I don't know, but certainly I can tell you that in most neighborhoods in Maine, rural Maine particularly, if you knock on somebody's door unannounced at about 9 or 10 o'clock at night you might be addressed with "What are you doing here?" and the homeowner's probably got a gun in his hand, wanting to know why you're knocking on his door at 9 or 10 o'clock at night when it's dark out. I think that Maine traditions, Maine rights, are unique upon themselves and I will inform you today that I have a concealed weapons permit. I'm an avid gun collector, have been for many, many years. I enjoy shooting and a lot of my fellow Maine citizens enjoy the same privileges. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I heard my colleague and friend, the Senator from Aroostook, Senator Jackson, say that he's not a lawyer and he did not stay at the Holiday Inn Express last night, or sleep in one. I am a lawyer and I didn't sleep anywhere last night. I'm in favor of this bill for two reasons. First of all, I feel the pain of the Senator from Aroostook, Senator Jackson, and Oxford, Senator Patrick, for their low losing percentage this year and I want to help improve that slightly. Secondly, let me just give you a hypothetical situation. We have a law office. We're open to the public. We have clients who come. I want you to think of two women. One is Jane Smith. Jane Smith is a client. Jane Smith has a protection order against her husband and has a concealed weapons permit and is coming to our office to see us. She has every right to have a concealed weapon in her vehicle and park in our parking lot and come and see us and be fine. Ann Jones works for us. She also has a protection order against her husband and has a concealed weapons permit. Now we're going to tell that even though the client can come to our office with a concealed weapon, she can't because she's an employee and not a client. I don't think that's a distinction we should make and I will support this bill.

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

Senator **SCHNEIDER:** Thank you Mr. President. I just wanted to mention in the frame of our Constitution one of the most sacred things in our Constitution was property rights. I would suggest taking some time to just research that piece of it because property rights are important. This is really what this is about. This is about what rights are more important than the other rights. You have businesses calling out to all of us right now saying that this is absolutely something that they oppose. They oppose it from a property rights perspective, but as an employer and being able to determine how they want to run their company, their business. I also find it interesting because if people are in favor of the individual when it comes to allowing our constitutional rights to be intact when we go to businesses, then we should allow people to protest around a business even if they object. We should allow every single constitutional right at that place of employment to be intact when we go to our employer's or the place of business. Right now we do not let that happen. The argument of saying that individual rights trump that of a personal property and the business or employer's rights then we need to look at all of our Maine laws right now and reevaluate where we're going because we do not do that right now, under Maine law. We do not trump the property rights and the business owner's rights for the rights of the individual to do whatever they want under the Constitution. We simply don't do it. If we're going to be consistent then I suggest that we have a look see at all the other things that we don't allow employees to do when they go to a place of business. Thank you very much and I hope you'll consider that and perhaps look up on your hand-held devise the framers and what they put as one of the most important pieces to our Constitution. Thank you.

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I'm just ruminating about a few things

because I have business people who are concerned. It says concealed firearms locked. Can they still have unconcealed firearms and say you cannot have unconcealed firearms, like in the pick-up trucks? Can they make rules about that? Can they make rules that say if you have a locked concealed firearm you must leave your keys with security? Do they have some out here if they wish to, from a safety point of view? I'm sure everybody thought of that, but I haven't, but I do now. Those are interesting, I thought. Thank you.

THE PRESIDENT: Did the Senator wish to pose a question through the Chair to anyone who may wish to respond?

Senator **BRANNIGAN:** Thank you Mr. President. Yes, I'm so interested now I would like to know about the keys. I know it's funny, but there is a serious side to this. Unconcealed weapons and keys.

THE PRESIDENT: The Senator from Cumberland, Senator Brannigan 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. The bill says that the firearm may be in an employee's vehicle as long as the vehicle is locked and the firearm is not visible. I cannot answer the key question.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I have thoroughly enjoyed this debate. It has been really quite comical at times and quite interesting. I love the discussion about our Constitution and our rights. I do have to rise and just point a few little things out to you that I think are a little odd and need to be resolved. Maine Chamber sent out a piece of paper that said that they were adamantly opposed to this bill. I took a look at their board members. Many of their board members are people who participate in some of the largest retail outlets in our state, L.L. Bean, Wal-Mart, and some of the biggest companies out there that sell guns. They sell ammunition. If it was such a crisis that they not have guns in their parking lots then how in the world is somebody going to buy a gun and then store it and still continue to shop in their facility? Then on another issue, I have a concealed firearms permit. I've had a concealed firearm. When I go to a place that has a parking lot that's banned, what I do is I park 50 feet away and then walk in. How are we somewhat safer because I parked 50 feet further than their parking lot? It's ridiculous. If I want to carry a gun I will. This will not change anything that's currently going on. Law abiding people are just exactly that. They will do what is necessary to abide by the law. There are others who are law breakers who really don't care when they want to commit a crime. I believe that all of this fuss is really a fuss about nothing. The courts are not going to rule that your constitutional rights somehow change because you parked 50 feet. I don't believe that's going to matter. The other issue that I might want to point out to you is when people protest in a parking lot. I'll give you an example where it might be an issue. Let's say people are collecting petition signatures for a referendum and they are doing it outside of somebody's business. Some people leave. They are

obstructing, they are causing a problem, and that business is losing business. That's far different than if you have a gun and it's locked in your trunk and nobody knows it's there. That's certainly a different situation and the courts weigh those differences and define what is reasonable. That's really where I really was quite interested in the discussions around constitutional rights. We don't define what those are, our courts do. They weigh each case differently. They look at the factors on both sides of the issues and they weigh public safety against the need for individual rights and they make that determination. I really enjoyed this, Mr. President. I hope folks will support the bill.

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

Senator **BARTLETT:** Thank you Mr. President. I just want to raise the point that when it comes to petitioners in most cases, private employers can prevent petitioners from collecting signatures on their property. They can prevent protesters from being on their private property. Most business owners can make that decision on who they allow on and who they do not allow on. With respect to the issue raised by the good Senator from Kennebec, Senator Katz, I think it's wonderful that he allows his employees, under those circumstances, to have guns in their vehicles at work. Under current law he is allowed to do that. There is nothing in this bill that helps that. Why is it that the rights of one business owner to allow guns must trump everybody else's decision or other businesses' decisions to the contrary? Every business is different. Every work place environment is different. Individual employers ought to have the simple right to say what you and can't do on their property. They can tell you that you can't chew gum at work, but can't tell you that you have to leave your guns at home. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason 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 (#211)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, HILL, HOBBS, LANGLEY, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: GOODALL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-422) **READ** and **ADOPTED**, in concurrence.

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

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Require That the Governor Be Elected by the Ranked-choice Voting Method"
H.P. 838 L.D. 1126

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

Signed:

Senators:

FARNHAM of Penobscot
PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
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-515)**.

Signed:

Senator:

PATRICK of Oxford

Representatives:

CAREY of Lewiston
CHIPMAN of Portland
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Minority **Ought To Pass as Amended** Report.)

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

Reports **READ**.

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

On motion by Senator **DILL** 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 (#212)

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

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DILL, GERZOFKY, HILL, HOBBS, JACKSON, PATRICK, SAVIELLO, SCHNEIDER, WOODBURY

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 **FARNHAM** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair moved that all matters thus acted upon be ordered sent down forthwith for concurrence.

Senator **DILL** of Cumberland **OBJECTED**.

Senate at Ease.

Senate called to order by the President.

Senator **DILL** of Cumberland requested and received leave of the Senate to withdraw her **OBJECTION**.

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

Divided Report

Ten members of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Revise the Maine Clean Election Act Regarding Legislative Leadership Positions"
H.P. 789 L.D. 1054

Reported in Report "A" 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
CROCKETT of Bethel
DAMON of Bangor
JOHNSON of Eddington
LONGSTAFF of Waterville
WILLETTE of Presque Isle

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 "A" (H-513)**.

Signed:

Representatives:

CHIPMAN of Portland
VALENTINO 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" (H-514)**.

Signed:

Representative:

RUSSELL of Portland

(Representative MITCHELL of the Penobscot Nation - of the House - supports Report "A", **Ought Not To Pass**.)

Comes from the House with Report "A", **UGHT NOT TO PASS READ** and **ACCEPTED**.

Reports **READ**.

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** Report "A", **UGHT NOT TO PASS**, in concurrence.

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

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** Report "A", **UGHT NOT TO PASS**, in concurrence. (Roll Call Ordered)

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

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

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code"

H.P. 1042 L.D. 1416

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-553)** (10 members)

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

Tabled - June 9, 2011, by Senator **COURTNEY** of York

Pending - motion by same Senator to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence

(In House, June 8, 2011, the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-553)**.)

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

On motion by Senator **RECTOR** of Knox, 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 Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, this motion, this piece of legislation, L.D. 1416, will undo what's been an important evolutionary piece of public policy that's evolved over my entire 9 year career here in the Legislature. In fact, I personally had evolved, along with the law of Maine, on this issue in that time. In 2008, after enormous work by the LCRED Committee's predecessor, which was the BRED

Committee, which my good friend from Penobscot, Senator Schneider, chaired in the last session, along with stakeholders and committee members, Maine passed a uniform statewide building and energy code. The purpose of the code was to increase uniformity and predictability for builders, contractors, and for others to make economic development easier. It was to modernize and harmonize many different single individual codes into one uniform set of codes. It was to protect consumers across the state who deserve buildings that meet minimum standards for safety, health, and energy efficiency in their construction. It was to reduce energy costs, to reduce our dependence on foreign oil, and to provide significant flexibility for the towns in the enforcement of them. All of you appreciate that this is a deliberative Body and the legislative process in which we are involved is never finished, but an ever moving target. It's my hope that we continue to move in a positive direction and I believe, fundamentally, that this bill would be a reverse course in that.

The MUBEC code that we have in place has not been without controversy. Over time, when concerns have been presented in the former BRED Committee, now the LCRED Committee, we've tried to move towards some consistency, some predictability, in our building codes here in Maine. Why is this important, you ask? Because there is no such thing as a disposable house in Maine. That would be a tent and we're not dealing with tents. We're dealing with the construction of homes that will house Mainers for generations. I live in a house that was built in 1852. I wish they'd known then what we know now about technology and insulation because the value of what I currently own would be higher and, more importantly, my fuel consumption, my need to purchase fuel oil for warmth, and my operational costs would be significantly lower. We recognized that we had an opportunity in the 124th Legislature to have a positive impact on new construction in Maine by passing a uniform, predictable building code. This was a radical change in many areas of the state that required neither building permits nor code enforcement. We had earlier adopted a model code, but models are rarely embraced when change is involved. The code was statewide, but we didn't even require the smallest communities to change their ways. We said that if you were a community with fewer than 2,000, though the code applied statewide, you need not enforce it. This was recognition that our normal reaction to change is resistance. I know it is for me and I suspect it is for each of you. Yet having predictability and consistence in our building codes is critical to the long-term development of our housing stock. It's also critical to our builders, who want to know that the rise in run of stairs is the same in Hancock as it is Bangor and that the height of a handrail is the same in Calais as it is in York. Take away the local oddities and you lower costs, provide predictability and improved construction, and insulation all in one motion.

There are those who would argue that citizens can't afford construction costs as they are. Every model that was viewed by the LCRED Committee related to building codes and their related costs demonstrated that not only did the changes pay for themselves over the life of the loan to finance them, they also paid a premium. They pay and they pay and they pay enormous dividends to the property owners over time. There are those who will argue that the poorest and most vulnerable citizen homeowners simply cannot afford the changes that MUBEC provides. I'm sorry, but for me that would presuppose that we have citizens who do not deserve to live in buildings that are warm, energy efficient, cost effective, and have long term value.

That would condemn those same Mainers to substandard, energy inefficient, low cost but operationally expensive properties with little long term value. Cost savings that would pay for themselves every month would not be implemented. A hollow promise of dollars spent with no prospect of return.

I believe the building code does better by all Maine citizens. It assures that we get what we pay for in construction. It assures that both the promise of help for paying immediate costs by immediate savings as well as long term savings that add long term value are present. There is the promise that future buyers of our housing stock are getting a good long term value as well. Unlike other consumables, our housing stock lasts for generations, just like my 1852 Victorian.

Was the MUBEC perfect in its enactment or implementation? Absolutely not. It was rushed to take advantage of substantial ARRA stimulus funds that were available and used by the state. Are we paying a price for our haste? Absolutely we are in a roll-out that left contractors scratching their heads, code officers and third party inspectors in short supply, and questions and concerns that were substantial. Have all those issues been addressed? Some have been dealt with by legislation that was passed earlier this year. The Senator from Franklin, Senator Saviello's bill, L.D. 1253, that we passed unanimously here in the Senate and also in the House came from the LCRED Committee. It identified a variety of issues that we addressed in an emergency fashion so that we could move forward as quickly as possible. Other issues were identified, raised by the committee and brought to the MUBEC board for action and reporting back in the second session. Our building supply companies, trade groups, and large contractor groups have stepped up to the plate to make all this work. We further discovered that many of the objections that were raised were really misunderstandings and misinformation and that when those things were corrected, when the misinformation was corrected, a lot of the objections went away.

It's important to note that the MUBEC board, within the Department of Public Safety, was unstaffed for much of its life. It took a long time to find an executive to staff the committee and currently that position is unfilled, leaving an all volunteer committee of dedicated individuals to deal with the many, many challenges presented by the implementation of this legislation. They have volunteered countless hours to get us to this point, to the benefit of all of the people of Maine. With a little patience, they are ready, willing, and incredibly capable to deal with the other problems presented by the MUBEC implementation. MUBEC is far from perfect and we know that. Let us take the actions that need to be taken, but let the LCRED Committee do its work on in the second session, building on the progress of our first success in enacting the Senator from Franklin, Senator Saviello's changes and the work that we've done in the past. Let us continue on the path we have thoughtfully begun and allow Maine to assure our citizens that our buildings are well built with energy use and long term value in mind. Let us not roll back the clock, but continue to join 40 other states in providing consumer protection as well as contractor predictability through the Uniform Building and Energy Code. Thank you, Mr. President.

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

Senator THOMAS: Thank you Mr. President. Ladies and gentlemen of the Senate, this bill does nothing to change the code. The code will still be in place. We'll still have predictability

and we'll still have consistency. This will be the only code that will be available in Maine and either the towns will adopt it or they won't adopt any code at all. There's nothing in this bill that stops anyone who wants to build a house to code from doing just that. You can put it in your contract when you have your house built that it will be built to the code. There is nothing in this bill that changes the code. Of course the large contractors love this code. It puts much of their competition out of business. Why exempt smaller towns from the building codes? Number one, we always exempted small towns because it's too expensive to enforce these codes and small towns just can't afford to hire a full time code enforcement officer. My town of Ripley, 450 people, can hardly afford to hire a full time code enforcement officer. Then there's part of the plan that has private code enforcement officers that the builders are required to hire, but that's full of problems. Those code enforcement officers will have to travel, sometimes at great distances to reach houses in rural Maine. Who's going to pay for that travel expense at \$4 a gallon for gasoline? The homeowner is, driving up costs even more. Then would we be able to get an inspector at the job site in time so you don't have to shut the housing job down? You know the more delays there are the more it drives up the cost so further costs go up. Once you get done with all these added costs, what you are going to end up with is people who live in the smaller remote communities will have extra costs to bear that simply make good housing, upgraded housing, and energy efficient housing unaffordable. Those who get hurt the most from the reduced housing stocks will be the low income, and there's no shortage of low income people in rural Maine. I can assure you of that. Opportunities are fewer and wages are lower in our rural areas, so we've always had to be creative if we're going to have a decent place to live.

The house I live in was built by the owner. He and his family lived in the basement for a couple of years while they were building the house. I don't believe that would be allowable under this code. How would you ever get a certificate of occupancy to live in a basement? My house, by the way, is not part of the issue, but it was probably built with some of the last lumber that was sawed at a water powered saw mill in Maine in the early 1970's. Originally that lumber wouldn't have been allowed to be used because it wasn't stamped and wasn't graded. We had to adapt the building code so that people could saw their own lumber. That's another way that we've saved money in Maine, by sawing our own lumber. Who knows, if we change that back again, whether they'd be able to do that. My neighbor up the hill bought a small lot and put in a septic system and a driveway. Then he moved a mobile home in so he could live there while he builds a house with the help of his father and his grandfather. He works full-time. He and his family would have to spend weeks and maybe months studying this code to make sure that they got it right. Then, when they get part of the house built and the inspector gets there, would they have to tear it out because it didn't meet the code when it had been good enough for his father and his grandfather and for generations? My house, for example, we've raised two families there. The previous owner raised his family and I've raised mine. Wasn't built to the code. It works well. With all of the additional costs that Maine families are facing in today's economy ever single penny they have to spend is being used to put food on the table and keep warm. We should not be adding any more unnecessary expenses now.

Part of this energy code is to save us from over using foreign oil. Those of us in rural areas have been burning wood long before it was fashionable, or, if you would, long before it was cool.

For those of us in rural Maine, saving money is not something that you do because it's nice. It's not something that you do because your neighbors are doing it. It's something you do because you have to, because you just don't have the money to waste. We were taught, we were brought up, to go around and shut the lights off in the rooms where there wasn't anyone. We didn't need to have television advertisements to tell us to do that. We've been doing that all along. We know how to save energy and we don't need someone from away coming here to tell us how to save energy or how to build our houses. We may have lost more jobs than our share in rural Maine, but we still need a place to live and we still need the ability to be able to provide that place to live for ourselves. We've been doing it for generations. We will be able to do it for generations. Please pass this bill and let us keep providing ourselves with a place to live. If this code is as wonderful as everyone says it is towns will be lining up to join in and sign up. They don't need it forced down their throats. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, first I want to thank the Senator from Knox, Senator Rector, for having done a great overview of the reasons why, and articulating the reasons why, I've been in support of the Maine Uniform Energy and Building Code. Those ideals are, and this is, what I've been trying to do as far as my work under the dome and why I came, in large part, to serve in the Senate, to improve the economy by making our regulatory environment more predictable, to try to attract investments to reduce costs for businesses, developers, and the companies, the businesses that we supposedly hold so near and dear and we want to see grow, as well as consumers. The notion that by getting rid of the code is going to somehow lower costs, both for low income people as well as make the regulatory environment and the business environment better, is just false. The building code was highly supported after a lot of work. There were meetings from Portland to Presque Isle on this. Bringing all the different stakeholders together was one of the most incredibly intense processes that we've seen because we wanted to try to do something that was really good public policy, that would help the state of Maine, that would make things better for people who wanted to improve the economy by bringing businesses to Maine and developing and growing Maine. That's what I hear all the time. "Elizabeth, bring us jobs. Make Maine a better place for businesses to succeed." This code was part of that effort.

When I was thinking about how to best articulate how I felt about this code I thought it was best to really bring to the floor some of the testimony by people who came who were from the business community who really made their arguments for me on why this building code is so good. This is from the Maine Contractors and Builders Alliance. "L.D. 1416 hurts both the consumer and builder by allowing a patchwork of varied requirements from town to town. Allowing municipalities to opt out will propagate the current situation of different building codes from town to town. This adds tremendous confusion in the bid process for both builder and the consumer. Where there is no code consumers ultimately will not be able to compare competitive quotes on an apples to apples basis. Should an issue arise in the construction process, resolution will be more difficult than there would be if there was a code in place." Another

business person, local business person here, LaPointe Lumber, Mr. Richard Tarr said, "I'm testifying in favor of retaining the MUBEC as it currently stands. MUBEC is already in effect. Commitments have been made. Money and efforts have been spent. We are getting through the initial growing pains and the process will get smoother as time goes on and builders, designers, homeowners, and municipalities become more familiar with the code. MUBEC is based on well established codes that are used throughout the country."

I want to just say something about the ARRA funds that we've received. I think it's close to \$30 million right now. These funds were based on the fact that we would be 90% compliant with the energy code by the year 2016. It's not at all clear that we would not have to give back this money if we were to support the Ought to Pass as Amended report. I want to repeat that. It's not at all clear that the State of Maine would not be responsible for paying that money back. That's a lot of money, especially given the current economy. So by passing this piece of legislation we make things worse for businesses and we don't help the low income people at all? That's just not true. Not one single low income advocate came to the hearing on this bill, advocating to get rid of the MUBEC. In fact, a lot of low income people will be disadvantaged because they will be buying things that are sub-standard, that they will spend far more on a monthly basis in heating costs than they would on the excess it would cost to spend to bring a house up to code. I want to give you an example. Let's say on an average house cost today, if you spend \$17 additionally on a monthly basis on your mortgage for the extra \$300,000 or whatever it cost to bring your house up to code, if you don't do that the energy costs are roughly \$30 per month. Immediately the savings are automatic. This notion that this is better for people who don't have money, it's worse for everybody because a lot of people in that low income area, you know what they get? They get federal help. They get federal assistance for LIHEAP funding. Why do you think so many people in my district need fuel assistance, my house included? The housing stock there is over 100 years old. They didn't know about how to do things right with insulation and so on. Heat just totally leaks out of these houses. What do they do? They ask the government for fuel assistance. If we want to lower those costs we've got to start working on housing stock that doesn't leak out the fuel. We've got to become more smarter and efficient. Anybody that makes claims that somehow this is going to help the little guy and this is going to make savings. Immediately the savings are going to be reaped by doing these tightening up of people's homes and building to code. We help business. We help the consumers. We help low income. Perhaps we get people off low income heating fuel assistance so we save tax dollars, even at the federal level. We get people off public assistance.

This is a massive piece of legislation and it's why I'm so passionate about it, because it achieves so many good things for people. Business after business will tell you this is good for business. Is it going to help the guy who's not doing such a great job out there in the field, who may not be doing things just so and maybe doing a little bit shoddy work? No, it's not going to help those people. That's true because all of a sudden they'll have to be doing things to the code. There will be checks and balances. I just got a letter from somebody recently. They gave all their money to a contractor. They've still not gotten their house finished. It is a sad, sad story. I wanted to bring that up to you. One of the biggest complaints the Attorney General's Office gets, guess what it's about? It's about bad construction experiences.

Make no mistake. This is undoing what we've done. This good policy will, by no means, don't fool yourself, not be helping businesses in the state, will not be helping the consumers of this state, and will not be helping the low income people of this state. We will also be sending more money to our enemies who are reaping the rewards of us paying all of dollars in oil costs outside of the United States of America. You could even say it's about a national security issue. Maybe it's small because we're a smaller state, but it definitely has an impact. Quite frankly, I don't want to spend my money that way and I hope that you don't either. I hope that all of you will see that this is a really bad thing for business and that you will vote against the pending motion along with me. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will begin by saying I think each one of us in this Body are here to do what we think is in the best interest of the state of Maine. I wholeheartedly believe that. I also believe that each one of us are influenced by our own environment. Our parents, the school we went to, the communities that we grew up in that help us formulate who we are and some of our heartfelt beliefs. I understand that not every community and not every individual that is represented here in this Body lives in rural Maine. I think that, quite frankly, some of you people, or some of the people that are going to vote on this today, may live at the end of that proverbial cul-de-sac with the flowerboxes in front of their homes. I certainly don't want to put you in a position where I would force my values on your community. I understand that I represent Waldo County and I have communities that absolutely will embrace the MUBEC code. There is no question in my mind. At the same time I represent some very poor communities. I'm asking you to consider very carefully, and try to think beyond just the influences that we're exposed to every day and look at a broader picture, and take into consideration some of these poorer communities. During the campaign I think each one of us probably went out and knocked on doors in our communities. I think it's probably one of the most humbling and wonderful experiences that we can have because it really puts us in tune with the folks that we represent. I want you to know I've knocked on some doors along the Maine coast that are probably worth millions of dollars, but I've also knocked on some doors that, quite frankly, was a sad existence. We have people in this state that live in abject poverty. It is very humbling and sad to see the conditions that some folks that we represent have to live in in rural Maine. I know we've talked a lot today about contractors. I want you to know that the concept of contractors doing this work for these people is way outside of the realm of possibility. This is work that they are doing themselves. I went to a recycle meeting recently in Waldo County. They were talking about all the cans and bottles and the tonnage that they recycled and how much money had been saved. One of the things that was brought up, with pride, as a matter of fact, was the number of windows that had been recycled at the recycle center. They weren't talking about taking these windows and saving the glass. They were talking about people taking them home because it was better than what they've got. We've talked about investment. These people aren't making an investment. They are putting a roof over their family's heads.

I know I've talked about, to several of you, this code and the fact that this code exists for additions to 1972 Holiday Ramblers; 10 of 55 mobile homes that people live in in my district. Yet we're going to add hundreds, and in some cases thousands, of dollars worth of costs. I've had people from the lobby that have come to me and suggested that this money is an investment. They are so convinced that when the State meets this code that they will go so far as to suggest that the investment would be paid back in just a few months. Obviously, the gentleman that made that comment wanted this legislation to go forward so badly that it didn't matter what he said or had to say to convince me. That's a sad, sad thing to see happen. We've been told that it will undo the code. Ladies and gentlemen, this does not undo the MUBEC code. It simply offers some local control to communities under 4,000 people, communities that, quite frankly, don't have the resources to enforce the code and, quite frankly, in many cases this doesn't fit their culture. I don't know if that's the right word. It doesn't fit what that community is about. If it fits your community, you have to ability, if you are under 4,000, to get in. I don't begrudge any of the communities that this fits from adopting the code. I appreciate the work that the BRED Committee has done to make the code better than it was. I think that there's a lot more work to do. The fact of the matter is they are investments. We talked about mortgages and loans and how small an amount that this was actually going to cost us on our loans. These people aren't making loans. Nobody would finance what they are doing. They have such meager limited resources. They are not going to the bank for the loan. This isn't about contractors, it's about individuals and allowing them to have the same options that I had.

My wife and I got married a little over 25 years ago. My uncle and I, three days before we started construction, had a piece of lined paper. He came down to my kitchen table. I lived in one of those 10 x 55 mobile homes, paid \$1,000 for it. We sat at that kitchen table and we drew out a plan for my first home. We built a 24 x 32 saltbox, 2 x 6 construction. I bought the 2 x 6s from Mardens, as a matter of fact. Factory seconds, I think. It was a wonderful home. My wife and I lived in it for 15 years. Like so many of the rest of the people in the state of Maine, I thought my kids were never going to grow up, so I went and built a bigger home and moved up the street. I would love to go back and live in that same home. Didn't have an engineer stamp. Probably doesn't meet the MUBEC code, but I can guarantee you I burnt a whole less oil in that house than I do in the new one that probably might meet that code.

The question of the ARRA funds, I've just finished talking with Office of Energy Independence about this very issue. They have gone and notified and talked with the Department of Energy. There was no indication at all from the Department of Energy that this is an issue. None. Ladies and gentlemen, sometimes we get it right, sometimes we don't. Rural Maine needs some options. I would really appreciate it if you gave us some consideration. Thank you.

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

Senator **MARTIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise very little to speak, but I thought I should on this point. None of us like to lose local control. I think we all understand that. Sometimes we have to be protected from ourselves and I think that's really the meat of what we're trying to get at. I just want to share a quick example. One of my

employees came to me; he wanted to borrow some money so he could build himself a home. We granted the request. I never asked what he was going to build. He went out and built himself what they call a cordwood home. He obviously lived in a town that didn't have a code. He built himself a cordwood home and was very proud of it. This was in the Fall. Come about January he came back for more money. His heating costs were astronomical and the biggest problem he had was that he couldn't buy insurance on a cordwood home. He could get insurance through Lloyd's of London, which would probably cost more for insurance for one year than he probably put into his home. This really is about giving tools to individuals that do want to build. If you want to build your home, that's fine. The good Senator from Waldo said he built himself a home out of 2 x 6s. He didn't have to; he could have used 2 x 4s. He knew it would be easier and more efficient to have a 2 x 6s home where he could have an R19 in his wall versus an R12, if that. With that, I just wanted to share that example. Thank you.

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

Senator **SCHNEIDER:** Thank you Mr. President. Actually I just want to echo, passing laws. Why do we pass laws at the state level that are uniform? The idea of this, the reason why it's undoing this code, is that the idea was that this was to be uniform. Without the uniformity you create this patchwork hodge-podge all over that state that is very difficult for people in business to deal with. That's why you do it at the state level. Just like for health and safety and benefits for business, we do pass laws here at the State to try to implement things that will actually improve people's lives, just like we did the other day with the texting law. I can assure you that not everybody is happy that they're not going to be able to text while they drive. Is it better for people? The general population, most of us, yes. That's why we did it. Just like this. The code, as it stands today, is better for people. The overall population is better served and the business community is better served than we would be without it. That's why we do it. I just want to say this notion that there are some of us who don't serve rural areas. I serve over 20 communities in Penobscot County and can assure you that most of those are very, very rural and not well-to-do communities. I've been to doors where I can assure you there are people who are not on the voter rolls because I think it's that important to visit all those people in my communities, regardless of whether or not they vote for me. I can tell you I have seen horrible structures. Horrible. Those are the very people that I want to help with this kind of code. They are the people who will be advantaged by this code, not disadvantaged. There was somebody who recently said, "Why should the rural communities be shafted? Why should we get the short end of the stick by not having a code? It's better for us to have a code." That is the right attitude because it is better to have a code and it's better to build to this code. Frankly, if I could spend \$3,000 additional on mine I'd pay for it within one year. If I could spend \$3,000 and fix my house completely, as a newly built constructed house today, I would save it in the fuel that my house leaks out because it's an 1830's house. If it was that inexpensive to make the changes to fix all of those problems that I have with it, I'd do it in a heartbeat. When you talk about building new things, whether it's an additions or building a new house, this is going to advantage people, massively.

I also want to say just one other thing about contractors. When did they become the evil doers? They are business people, contractors. Builders are business people and they are all the way down the line. If you think of all the people involved in construction, it's a massive amount of people. Mr. Tarr, for example, is in the lumber business. He's not a contractor. That's not to diminish contractors, because I think that they do amazing work in this state and they are an integral part of our state's economy, as are the architects and the engineers. I don't want to diminish those people by saying that just because they are advocating to keep the code that all of a sudden they are somehow not important. They are very important. I really hope that we will move on and we will reject the pending motion. Thank you very much.

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

Senator **BARTLETT:** Thank you Mr. President. I think it's important to recognize that there is extreme poverty in each and every one of our districts, from one end of the state to the other. I think that's one of the things you learn as you go door to door. You find out exactly where that poverty is. Sometimes it's right next to neighborhoods that seem to be doing very well. Sometimes it's in those neighborhoods. Sometimes it's down along dirt roads. Sometimes it's in the inner city. The point is that there's extreme poverty from one end of the state to the other and it's something that unites us. It is something that can bring us together to try to solve that very real, very significant problem. One of the things that I've seen, and have been very concerned about, is the fact that a lot of low income people, from one end of the state to the other, are renting their homes. They are renting homes that are substandard, in part because we have such old building stock, and in part because they haven't been kept up as well as they should. They are spending extraordinary amounts of money just trying to heat the place and to keep the lights on. Having a building code protects those people because when they go to rent an apartment the heating costs and electrical costs will be affordable to them. When we look at this issue of poverty, you've got to look at it globally. You have to look at the impacts this will have on them. The goal here is not to stop someone from building their own home. We want them to do it. We also want to make sure that when they do they can live in it and they can operate it. There is nothing sadder than someone going out and finding a way to build a house and then having to give it up because they can't afford to manage it. They end up going under and they lose their home and they lose everything. The idea behind this code is to make sure that every person in the state of Maine has an opportunity to live in a basic level quality of housing. We know a lot of tricks that are tried and true, that don't cost a penny more, but can make your building a lot sounder, a lot safer, and a lot more affordable to heat. That's all this code is trying to do. I hope we can protect the integrity of it. Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm a little embarrassed to rise on this one. I think the Senator from Waldo, Senator Thibodeau, hit it right on the head. I hope I can add something new. When you

talk about poverty in the state, how many of hundreds of thousands of people we have on MaineCare, and low income folk, I will take you for a little trip through the state of Maine. There is a joke on my side that it sometimes takes me 350 miles to get down here. I'll give you a little hint of where I've been. You start in Newport, follow 220 clear to the coast. You zig-zag down, up hills and down hills, and take a look at the poverty. On top of the hills there is no poverty. Down in the valley there is poverty. I don't know how far that is, Newport through Detroit and ends up at the coast someplace. You have to zig-zag. A lot of times there are no straight roads. I'm convinced it's all up and down hills. If you go out to Winthrop and go out 133, cross over and catch 219, you'll catch a road that goes to Bethel. If you want to count poverty, take a look at the trailers and take a look at the jerry-rigged buildings that are patched together. Also take a look at the wood piles behind them. That's probably about 50 or 60 miles.

If you cross over and go back to Old Town and cross over Milford and Bradford area, you go from Old Town to Lincoln and look at the poverty along the road. The little houses there. Those folks are getting by the best they can. I'm not against the building code. You understand that. I think you need a snapshot of what's out there. I wander through the Union area, the Waldo area, the Hancock area. I've been by Richard Rosen's house and crossed the bridge I don't know how many times. I wish they'd tear that thing down, but it's got too much lead in it I guess. I go up over the hill back where Senator Rosen lives and there are some pretty poor looking houses. I think there is a beef person up over the hill. Some pretty poor looking housing in there. Some of that is jerry-rigged. Some times early in the Spring you see plastic on the windows. They probably don't want to do that on purpose, but they are surviving. I'm not sure how a building code would help them.

I've been through Swan Lake. Those of you who know where that is. I've gone across to Milo and Dexter. Gone up to Abbot Village. You start looking up towards Greenville. The houses there are small, jerry-rigged in many cases. Also as things change the houses get better, not necessarily because the folks that live in Maine are from Maine. I go to Newport sometimes and zig-zag across Dexter, Garland, LaGrange, and Howland. If you've been in LaGrange, somebody's district there, the housing is terrible. Boarded up stuff. Four or five trailers pushed off the road some place. The usual "I can't get rid of the stuff around my house". Those folks are living there. They need money. They need jobs. This building code is not going to help them. I could go around Aroostook County, the southern part of my district. Patten, Sherman, Island Falls. They've lost mills over there. More little places for sale than you every could believe in your life. Around the Houlton area it's not too bad, but if you go down to Washington County, I've been to the President's mustard factory down there, and if you go off the side roads you run into the same thing in Washington County. I don't know how to solve that other than the jobs we're talking about. That stuff exists. I've seen it. I've run through, I think, three cars now. I only charge for 200 miles. I come down and back. I don't charge for the extra. It's sad to see this and sometimes I think we speak here and sometimes it sounds rather paternalistic, whatever that means. I'll let it go at that. The Senator from Oxford, Senator Patrick, the other day said, in jest, I think, when we were talking about something else, that we didn't tell people what to do. It seems to me we're telling people what to do.

My last comment, and I hope this is not taken out of context, the sheet that we were handed, this yellow sheet, has 56 people

that are interested in this code. Rightly so. I see no homeowners here. I see people that, in some ways, would benefit from a code. I see the New Horizons. I see the Sierra Club on here. I see Grow Smart Maine. I see the Conservative Law Foundation. It goes on and on and on and on. A bunch of engineering folks that would design stuff. Maybe they can design for those places that have more than 4,100 people. Maybe they can design for those folks who have the money and the ability to raise money and stay in business just as well. I doubt that they are dealing with the smaller folks that are just getting by. Social Security, \$400 or \$500 a month. Try to live on that. Your sons have fixed up trailers for you or additions for you, and done the ramps so you can get in and out of those trailers. I appreciate what the Senator from Waldo, Senator Thibodeau, had to say. It's very heartfelt. It's understandable, the image he has in his mind because I do also by just driving those areas. If you want to go out to West Gardiner, if you can not get lost out there, and see the West Gardiner side roads. I haven't found Senator McCormick's place yet, he tells me it is three houses below the market. If you go over what I call the Middle Road, that goes from Augusta out the Old Winthrop Road, you drive up to Waterville and take a look at those houses. Some are good, some are bad. As you get the transition over to folks from away and more money that housing becomes better. Take a left or right at some of those markets and go down the roads there. Go out to Mt. Vernon, where a lot of our folks are living. That housing is a reality. I think sometimes we drive by it and really don't look at it. I would support the Senator from Waldo, Senator Thibodeau, and thank him for his work and thank him for showing how something is talked about that comes from the heart.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I think that low income and high income families deserve to have quality buildings and contractors deserve to have a uniform building code. All of the e-mails and phone calls that I've gotten were in opposition to taking the codes away or disseminating the codes. I'm going to be voting in opposition to the motion. Thank you, Mr. President.

THE PRESIDENT: The Senator from Penobscot, Senator Schneider, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **SCHNEIDER:** Thank you Mr. President. Just very briefly, the Senator from Aroostook, Senator Sherman, asked who represents LaGrange. That would be me. I know very well what the housing stock is and I appreciate your mentioning that. It is exactly for those people that I advocate here. The other question was asked, how will this help people in those areas? By making the business climate better in the state of Maine we will be helping every district, every town in Maine. This will definitely help that business climate. It will be making it much more predictable for the business person making investments in Maine and for the individual, the person who may be purchasing a house that is built to code, you will directly impact those people buying those newly constructed homes because there are energy costs, the savings of that, will be so much better that you will save so much more money that the stress on them just eking by will be

much less if they are able to save. As we go forward in the future, maybe not right today because we're talking about newly constructed homes, those people in future generations to come will have the advantage of a much better house, much more cost effective. There are a whole bunch of reasons why this is an immediate disadvantage if we pass this report. That's why I'm urging you to go against the pending motion and go red. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Very briefly, Mr. President and men and women of the Senate. I just want to say that, indeed, we are all concerned, I think, about the impoverished conditions that many folks live in here in Maine and it is not something any of us are proud of or don't wish that we could change. I think at the same time it speaks directly to why the MUBEC code is so important, because what we are doing is laying out a vision for the future that provides us an opportunity to do better, to have buildings that are better, that are energy efficient, that are sustainable, long term, and provide folks housing stock that we can be proud of. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Courtney 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 (#213)

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

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

EXCUSED: Senator: GOODALL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **COURTNEY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (H-553) **READ.**

On motion by Senator **RECTOR** of Knox, Senate Amendment "A" (S-288) to Committee Amendment "A" (H-553) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. This simple amendment replaces the bill by allowing municipalities an option. One of the objections that we heard raised was one where folks couldn't do what they wanted as they were doing changes to existing houses. What this does is presents municipalities an option to exempt from the MUBEC requirements any remodeling or additions to existing single family residences that were built prior to the code adoption on December 1, 2010. I think it addresses the issues of those folks who want to be able to do simple changes, renovations, expansions, or additions to their existing housing stock on their own and may address some of the concerns of some of the members. Thank you, Mr. President.

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

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU:** Thank you Mr. President. I appreciate the Senator from Knox, Senator Rector's interest in this bill. I know that the amendment that he's offered is well intended, but, unfortunately, I would ask you all to speak up for rural Maine and give us an opportunity. This amendment would undo 99.9% of what L.D. 1416 hopes to accomplish. I would hope that we would reject this amendment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Adopt Senate Amendment "A" (S-288) to Committee Amendment "A" (H-553). 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 (#214)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, MARTIN, MCCORMICK, RECTOR, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY

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

EXCUSED: Senator: GOODALL

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **RECTOR** of Knox to **ADOPT** Senate Amendment "A" (S-288) to Committee Amendment "A" (H-553), **FAILED**.

Committee Amendment "A" (H-553) **ADOPTED**, in concurrence.

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

On motion by Senator **SCHNEIDER** of Penobscot, 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 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 (#215)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFKY, HILL, HOBBS, MARTIN, MCCORMICK, RECTOR, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: GOODALL

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act Regarding Labor Contracts for Public Works Projects"

S.P. 378 L.D. 1257

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-254)** (7 members)

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

Tabled - June 7, 2011, by Senator **THOMAS** of Somerset

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

(In Senate, June 7, 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: The Chair recognizes the Senator from Cumberland, Senator Alfond.

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

THE PRESIDENT: The Senator may pose his question.

Senator **ALFOND:** Thank you Mr. President. I didn't know much about project labor agreements before this bill, but I understand they are an important business model and policy tool that's frequently used in private sector construction projects and also on numerous publicly funded projects in other parts of the country. My question is, has there ever been a project labor agreement on a public work construction project here in Maine?

THE PRESIDENT: The Senator from Cumberland, Senator Alfond 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. Men and women of the Senate, in response to the previous question, during the committee hearing the answer was no. If I may continue. I have a concern with this bill. My concern is that we have asked a couple of times, once was just consultation more than anything and then an actually a request, for an opinion from the Attorney General. Basically, the first bill with the amendment that's on it now was deemed probably unconstitutional. It would be very hard to defend, is how it was worded. Then there is another piece that is put in that makes it easier to defend. There is still a question as to whether or not this is even constitutional. I do have the letter here from the Attorney General, Attorney General Schneider. I'm somewhat confused. It doesn't seem to have a positive yes or no. It makes it very hard to sit here. I would hate to get into the middle of labor negotiations if we aren't even constitutionally on the correct ground for that. I have some concerns and do with it as you may. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. May I pose another question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **ALFOND:** Thank you Mr. President. The good Senator from York just answered my question, thank you. Since there has never been a single project labor agreement on a public works construction project here in Maine, my question is, could someone explain why we are banning these?

THE PRESIDENT: The Senator from Cumberland, Senator Alfond poses a question through the Chair to anyone who may

wish to answer. The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, there is an old expression that my Dad used to use a lot and he used to say, "That's like closing the barn door after the horse gets out." We haven't had a lot of trouble with contract labor agreements, but we don't want to have any. The reason that we do need them is because they give such an advantage to out-of-state firms. We have so few union firms that would engage in these contracts in Maine that it gives just a distinct advantage to out-of-state companies. That's one of the reasons that we wanted to do it, or that we thought that we should do it. Another reason is that it drives up the cost of those contracts at a time when we can't afford to do all of the things that we need to do already.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I again rise to answer the question. We were told point blank that it's because there has been a problem in Connecticut and they were afraid some of you might understand the slippery slope, the creeping vine, the nose of the camel under the tent, and all those. Basically, that's what we were told about. We have the nose, the vine, the slope, and everything else all roll in. It was decided that, with all of our other problems, we ought to take along this problem now because it's in Connecticut and it's coming here. Let's just be sure that we give them another regulation here to doing business. That's the reason why. That's what we were told, point blank, in public hearing. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. This discussion so far has me tremendously confused. What I have yet to hear is what is wrong with the project labor agreements that we're trying to stop. If they are bad, and used in other states, how is it that they would become prevalent here? I have trouble understanding why we would remove this option that could be entered on a project by project basis. I presume that, as part of any bidding process, the government wouldn't be trying to require these unless there was some advantage or wouldn't allow them as part of the bid unless there were some advantage, either higher quality or lower cost or would avoid some other harm. I have difficulty understanding why we need to say, as a blanket matter, they have to be prohibited. If I could, Mr. President, pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **BARTLETT:** Thank you Mr. President. What is the harm of a project labor agreement?

THE PRESIDENT: The Senator from Cumberland, Senator Bartlett poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Arrostook, Senator Jackson.

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not responding to the question, but I did want to speak on this. This is the bill that I thought should have gone to the Labor, Commerce, Research and Economic Development Committee because it's about labor agreements, which I think is part of our jurisdiction. Regardless, it went to another committee. Some of you might be wondering what the project labor agreement is. I'd say that the project labor agreement is often referred to as a business model that increases the efficiency and quality of construction projects for the private and public sector. It's a type of contract used in the construction industry to set terms and conditions of employment, usually on large, complex, long duration projects. A PLA is a pre-hire, project-wide negotiation agreement that establishes the ground rules that cover all contractors and construction workers on a project. It has been used in places like Grand Coulee Dam, Hoover Dam, and Shasta Dam. Now Maine comes along and says we want to forbid the use of this business model on public works construction projects. This bill has real problems with legal preemption issues. The Attorney General openly admitted that the original version of this bill was clearly in violation of federal law and the U.S. Constitution. The full committee asked the AG for a legal opinion and instead the office worked to redraft the bill to try to work around those legal issues. The final bill still conflicts with federal law. In a meeting with Democratic members of the State and Local Government Committee this morning, the Attorney General acknowledged that this kind of bill would likely be challenged and challenged on solid legal grounds. He said that this version is more defensible than the original, but still very open to solid legal challenge. The Ohio Supreme Court unanimously struck down legislation almost identical to this.

I'm also concerned with the fact that there is a statute that we have here currently that says the Attorney General shall give written opinion upon questions of law submitted to him by the Governor, the head of any State department, any other State agency, or by either branch of the Legislature. I'm confused as to why we can't get a written opinion that can be sent across your desk to show you that this is absolutely unconstitutional. It just seems so funny in light of everything that's going on here. Yesterday we heard about other legislation that was unconstitutional. There was never an opinion asked about it being unconstitutional, but we got an e-mail out of the Attorney General's Office saying it was unconstitutional. When you explicitly ask for a ruling, you can't get a ruling. It's very hard to understand what is going on. This bill clearly seems to be unconstitutional and I don't know why, in light of what happened yesterday, we're even debating the merits of it. It's unconstitutional. We're not supposed to be against the Constitution. That's the number one guiding principle of this Body.

Finally, it seems like that word labor in there seems to be a real problem for some people. I have to tell you that this is not only going to affect the State, this could go as far down as your small towns that we just talked about on an earlier bill. If town officials wanted to put out a contract to do a type of job in their town, they could have a project labor agreement. It could have a number of different things in there. It could even say that they don't want any H2 workers working on that job. We're going to take away the ability of our small towns to put out contracts that would benefit the townspeople in those areas, which I don't understand why we would want to take that away. We've heard that it isn't a problem for the State. The State's not even doing it.

You're going to take away that local control that we all strive to have and, finally, you're going to violate the Constitution. I'm very confused about why this bill is here and what the problem is that it's trying to resolve. I guarantee you that if we pass this bill we're going to get into a lot bigger problem that we're going to have to resolve.

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 think project worker agreements, which is a more neutral word, are useful tools to be considered on certain construction projects. They are not perfect for every project, but for certain projects project worker agreements, or project labor agreements, however you like or dislike, make a lot of sense. They are an effective tool for ensuring timely, cost effective delivery of large and complex projects. The advantages of this business model are several. It provides contracts with access to a properly trained, highly skilled workforce. It facilitates more accurate budgeting in cost forecasting for project owners and contractors by establishing a set of rates for all craft workers and apprentices on the projects. It helps ensure the projects are built correctly the first time, on time, and, as a result, on budget for the end user. Additionally, future building maintenance costs are often lower.

I have first-hand experience with this. The 260 megawatts combined cycle power plant in Rumford was, hard to believe, built with a project labor agreement in 1998. It was a very successful project, done on time and on budget. The Androscoggin Cogeneration Center in Jay was built the same way in 1998 and was also a very successful project. Yet the State of Maine wants to ban this business model on public works construction projects. I, personally, just don't get it. As far as I'm concerned, this is a solution in search of a problem. It seems like in this session there have been many of those and there have been many bumper stickers, as far as I can see, as well. In the last 15 years there have been at least 5 project labor agreements on private construction projects in Maine. There has never been a project labor agreement on a public works construction project in Maine, yet L.D. 1257 proposes to ban project labor agreements on public works construction projects. This begs the question of why we need to ban something that has never occurred. The bill is a solution in search of a problem and it is more than a national out-of-state anti-worker, anti-union agenda than it is about real issues of importance to Mainers. This is a tool that the State of Maine should keep in its toolbox. This legislation has no constructive role to play. I would ask each and every one of you to oppose it. Thank you very much, ladies and gentlemen.

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

Senator **PLOWMAN**: Thank you Mr. President. Men and women of the Senate, what's changed is that there used to be an Executive Order that said you could not use a project labor agreement on taxpayer funded jobs. The Executive Order that replaced that actually says that there is an encouragement to use project labor agreements on taxpayer jobs. That's a huge swing in public policy that took place by virtue of an Executive Order. Project labor agreements require that the successful bidder on a job to recognize unions as representatives of all the employees

on the job site, that they have to hire from union halls and pay into union benefit programs. On government funded projects, I think that taxpayers deserve the best product for the best price. Studies actually show that this will drive the cost up to 20%. In Maine, 94% of the contracts are not union contractors. That's 94%. As a result of a project labor agreement being forced upon the successful bidder, we're going to be looking at companies from out-of-state bringing employees right up the Interstate, right past the companies that pay taxes in the state of Maine, and right past the people who hire those people in the state of Maine. It means we'll have to recruit union workers from other states to work alongside our non-union employees. It means that the free market takes a hit because the contract that is already pre-written about who can possibly work there rules out the people who can't work there. That's not the way we want things to work. Why is this here? Because of a major shift in public policy at the federal level. Why has it not happened yet before? Really because nobody has paid attention to these smaller contracts until things got really tight. Things are tight enough now that there's going to be lots of other states looking at the same kind of things that happened in southern New England. We're going to see it move up the Interstate and we're going to be looking at Maine, which has probably the least amount of union contractors in the United States. This is about making sure that Maine companies get to hire Maine people, to use our Maine tax dollars to grow the economy in Maine. Thank you, Mr. President.

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

Senator **MARTIN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd just like to expand on the Senator from Penobscot's comments as far as the increase in cost to a project. That 20% quoted would be just the bidding increase once the project is bid, because the contractor bidding on this project knows they are going to have to take the higher rates that come along with the project labor agreement. The anticipated cost, the overruns, will be much higher. One classic example of that, and we all probably have heard of it, was the Boston Central Artery Project, or the Big Dig as they refer to it. This was a union only PLA, originally projected to cost \$2.2 billion. The project ended up costing \$14 billion. The project was two years over due the completion time. It reported several worker deaths, as well as a severe leak that we all saw on TV. The quality as well suffered on this project. I just wanted to give the Body that example. 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, the previous two speakers bring up some great points about the cost, the cost of doing business in Maine and the cost of doing businesses in the United States of America. Where are we today? Where are American workers? Not just union workers, but labor workers. A lot of it is because of the greed of multi-national corporations throughout the United States of America that has caused this phenomenon and caused the downwards harmonisation of the American economy. The downward harmonisation of the American economy. I wish my seatmate, the economist, was right here. I'm sure he could back me up. What has the

downwards harmonisation of the American economy done? It is factored in that for years to come we are going to be competing against Malaysia, China, and South America for wages that are smaller and smaller. I can tell you, by the time my son gets to be my age, and I am proud to say I make about \$70,000 as a world class skilled union maintenance mechanic in the paper industry, he will never see that kind of money. He'll probably be lucky to make \$35,000 or \$40,000 a year because of the way our country has gone. The federal government fought for years not to give a minimum wage because the downwards harmonisation would have been that much lower had they not given the minimum wage increase.

The Big Dig, I don't know of any drilling outfit in any country that made a tunnel underground that came in under budget and on time. There are so many issues that happened there. I can tell you one thing; I work in the paper industry. As you all know, we're getting older and we're all getting crippled up and it is shrinking. I will tell you, I like all Maine workers, but we have had many instances hiring big contractors to come in to do the work. Less safe, less skilled, and when they get done the job we have to spend thousands of dollars going back to fix the things that should have been done right the first time.

Do I really believe a project labor agreement is going to cost that much? It can't cost that much on public jobs because we've never had one. Maybe we will in the future, but I've seen many cases, many documented cases, where the workers, the contractors, and the project owners actually sit down and harmoniously agree on what they want to set for wages. A lot of times it's not what the workers would like to get, it's actually lower. I've seen union jobs that had a lot of non-union qualified people working on those jobs. Probably it was bad for those guys because they probably want to see what it was like to get treated a heck of a lot better than working for the non-union contractors.

The United States of America, folks, we're in a death spiral and we're not coming out. Oxford County has 48 businesses that have shut down. Factories and canneries. People in Oxford County, people throughout the state of Maine, only want one thing. They don't want any doggone welfare. They want a job. They want to make something with their hands. They don't want to call up and say, "Hey, you owe on your credit card," although that may be a pretty good job because they're not going to get too dirty and I know I do. Let's be realistic. This isn't even a problem in the state of Maine. I cannot, for the life of me, see why we're even debating this issue. Ladies and gentlemen, Godspeed on the United States of America's economy and I pray that the Chief Executive will be able to deliver on jobs for all of Mainers because Democrats, Republicans, Independents, Greens, and even the 460 wanted to vote on the same day in Bangor want a job. That's all we want, to be able to work. We want to be able to go to work. If project labor agreements, in the future, help out for those jobs, please leave it here and vote against this and go on with something that we can really hoot and holler on. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, project labor agreements are effective. We know that. We know that they are frequently used by companies in the private sector as a business model to insure timely, cost effective delivery of large construction projects. Toyota is not a union shop. They built every single one of the ten

North American automobile plants using PLAs. Wal-Mart, I don't believe they are a union shop, has increasingly started building its stores using project labor agreements. There is only one reason why companies like these are using PLAs. They work. They help with their bottom line. I have a question. If private companies see it as a wise choice to utilize PLAs on certain projects why would the State of Maine not afford itself the similar option? Option. Why would we take off the table and forbid ourselves from using this business model on public projects? If it makes sense on a particular project, why would we want to take it off the table? That makes no sense to me. When private companies, not being known for being great union shops, are using this tool because it makes sense to them, and betters their bottom line, then I think the State of Maine should afford itself the same opportunity. 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, I would encourage you to look at the bill. The bill does not say that this is removed from the State's toolbox. It is that voluntary project labor agreements will be allowed. What it says is it cannot be a condition of the original bid that you must participate in a project labor agreement. As part of the negotiations but not as part of the original RFP or the original negotiations can you say that in order to bid on this contract you must, we require, a project labor agreement be in effect. There's a huge difference from prohibiting it and prohibiting it from being a condition to bid. If the parties choose to go forward into a voluntary project labor agreement, they may. The State cannot say, and I will say it again, in order to participate in the bid process you must agree right now that you will use a project labor agreement. That's what we are doing. It's in the toolbox, but it's not going to be mandatory; only as a condition of agreement between the person who owns the contract and person who's bidding on the contract. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Thomas 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 (#216)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, HILL, HOBBS, JACKSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: GOODALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **THOMAS** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-254) **READ.**

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-269) to Committee Amendment "A" (S-254) **READ.**

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

Senator **THOMAS:** Thank you Mr. President. All I want to do is explain what this amendment does. This amendment replaces one word in line 14 on page 1. It strikes out "section" and inserts "chapter". It was a technical error in the drafting of the bill and it needed to be corrected.

On motion by Senator **THOMAS** of Somerset, Senate Amendment "A" (S-269) to Committee Amendment "A" (S-254) **ADOPTED.**

Senate at Ease.

Senate called to order by the President.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-254) as Amended by Senate Amendment "A" (S-269) thereto.

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

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow a Student Attending Private School Access to Public School Cocurricular, Interscholastic and Extracurricular Activities" H.P. 662 L.D. 903

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-490)** (7 members)

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

Tabled - June 6, 2011, by Senator **MASON** of Androscoggin

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

(In House, June 6, 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-490).**)

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

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (6/7/11) Assigned matter:

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Amend the Laws Governing the Deadline and Conditions for Municipal Approval of a Second Racino and To Allow a Tribal Racino in Washington County" I.B. 2 L.D. 1203

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-400)** (2 members)

Tabled - June 7, 2011, by Senator **FARNHAM** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(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-400).**)

(In Senate, June 7, 2011, Reports **READ.**)

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

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

The President took a seat on the floor.

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

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

Senator **FARNHAM:** Thank you Mr. President. The Veterans and Legal Affairs Committee discussion in work session was quite narrowly focused on this legislation. We didn't use our time to discuss the potential projects that may result from this legislation. We knew we were for economic development. We were for success in Biddeford, Lewiston, and Washington County. We're for success in the harness racing industry. We were for jobs. The committee discussion, though, focused on whether to send the citizen initiated bills on gambling to the voters of the state of Maine, as has been done in the past, or act on the bills directly in the Legislature. Both citizen initiated bills on gaming followed the same exercise to come to us. The majority of the committee members voted Ought Not to Pass to preserve the past process and send the citizen initiated bills to the voters of the state of Maine. Now this Body gets to decide whether now is the right time to depart from past practice or support the Ought Not to Pass recommendation of the committee and send the citizen initiated bills to the voters of the state of Maine.

On motion by Senator **RAYE** of Washington, 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 Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, to answer the question of my colleague and seatmate, I think it is time to depart from past practice. I rise today in support of the L.D. 1203. I have four reasons why I'm supporting this legislation to bring economic stimulus that my constituents want now, not after the delay and expense of another expensive referendum. First, this bill is a jobs bill. Let me mention a few numbers. There will be 800 construction jobs in Biddeford alone. There will be 500 more jobs, full time, once Biddeford Downs is open. Those jobs come with an average wage and benefits package of \$35,000 a year. Sounds pretty good in these times. We expect that there will be similar employment benefits in Washington County, the poorest county in the state with about 13% unemployment. These are the job benefits.

Secondly, Mr. President, as I turn my attention to the fiscal note, there are \$54 million reasons to vote for this bill. That's the number of dollars in General Fund revenues over the biennium. Money for college scholarships at the University of Maine and the Community Colleges. Money to support our agricultural fairs. In addition, this comes at a time when the state needs it most. We struggle every day, both in this Body and down in the Appropriations Committee, to find the proper nexus between fiscal conservancy and fulfilling our mission as a governmental body. The revenues that will come in will help us offset some of the necessary cuts we've had to make. Every person in this Body, in their own way, understands the necessity of the cuts we've had to make and how they hurt people. We've had to make cuts in schools and social services. This is money that we could be spending for research and development and money we could be spending on our roads and bridges.

Third, economic development also plays in this picture. Biddeford and Calais are struggling with new business. Biddeford is a town a lot like my hometown. It was built on the backs of

immigrants, largely Franco-Americans, who have seen those jobs disappear. They have a wonderful downtown in Biddeford, but it needs money to revitalize it and make it attractive to people other than those who have already committed to that community. They have a vibrant arts community, but they need to draw in people to observe the work that is being done. They have a mill district that is being developed, but it could be a long time before the full vision could be realized. Just take a moment and look at Biddeford through the lens of Bangor, the city that has welcomed a racino and has benefited from it; money to renovate a new civic center, a vibrant downtown, river walk area, and waiting lines at many restaurants on any given weekend in Bangor. By the way, all the tales of gloom and doom that was going to come to that wonderful city with the presence of slot machines, none of that has happened. Turn your eyes further Downeast and what do we see? A community that has struggled for decades around economic development. That struggle was recognized in 2007 when this Body voted to support a tribal racino 22-12, only to have it vetoed by the then sitting Chief Executive.

Forth, I think of Ocean Properties, which is the Biddeford developer, which has an incredible reputation from the Samoset in Rockport and properties in Bar Harbor to more than 30 properties in Florida. The company has an outstanding financial background and wants to invest where it started, here in Maine.

My own thinking on gambling, Mr. President, has transformed over the years. Maybe a decade ago, I was opposed to any gambling in the state of Maine, but my thinking has changed. It can lead to addiction, it can lead to people wasting money, and it does sometimes divert money from other spending, but you could say the same thing about alcohol and bars and yet nobody is suggesting that we need to have a referendum locally every time a new bar wants to open. Also, Mr. President, like many of us, I have grown tired of watching the stream of buses leaving our state each and every day with our people on them to go to Foxwoods and other gambling facilities out-of-state. It is my hope that this project will help turn that around and we will see buses coming north. We have an opportunity now, Mr. President. Remember when Rick Pitino became coach of the Celtics. He wasn't doing very well. People looked back to the glory days and said, "Why can't you do better?" He said to the press, "You've got to understand Larry Bird is not walking through that door. Kevin McCale is not walking through that door. Robert Parish is not walking through the door." Well, you look out into that hallway and developers are not lining up to walk through that door to put this kind of money into these communities. We have a successful developer with an incredible track record in Ocean Properties. The time is now and it's the right thing to do for Biddeford. It's the right thing to do for Washington County. Mr. President, I would suggest it's the right thing to do for the state of Maine. Thank you.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand here today in complete support of L. D. 1203. As many of you know, I have long been an opponent of gambling. That has not changed. For that reason I feel compelled to outline my reasons for supporting this important piece of legislation. As you all know, Senators are called upon to make extremely difficult decisions. Sometimes, after weighing all the pros and the cons, we wind up supporting measures that

many of our constituents want despite our own personal reservations. For me, this was one of those tough decisions. I can't stop gambling in Maine. Maine, let's face it, is now a gaming state. There will be, I'm sure, plenty of debate on whether or not to let the people decide. There will be debate about whether or not they did. There will be debate about what they said. I'll let others speak to that. For me, in the end, my decision was swayed by the parts of this legislation that will support all 26 Maine agricultural fairs and Maine's agricultural heritage. It will also help preserve agricultural jobs and open productive farm land. I remain concerned about the type of economic development this represents. I'd rather have different types of jobs, jobs that produce a product or add a value to our traditional natural resources. I'd rather have warehouses of goods waiting to be shipped around the world with "Made in Maine" proudly stamped on the containers. I would rather have vibrant and competitive entrepreneurs leading the way to a new informational based economy. This bill won't do that. I do take comfort in the actions that this historic legislature has taken to move Maine in a new, more prosperous direction; actions such as regulatory fairness and reform, health insurance reform, affordable state government that leaves more money in people's pockets and the economy, tax policies that reward job creation and foster economic activity, welfare reforms that move people away from dependency and towards independence and greater self esteem. I am confident that these and other initiatives that we will pass together will bring about the type of good, stable jobs that we desire. My only lament is that we were not able to act on these initiatives sooner so that gambling jobs would not be dangled out there for people starved, absolutely starved, for options and desperate for jobs, any type of jobs. Help is on the way. I will continue to work tirelessly with all of you to transform this state into a place that is beautiful, productive, free, and desirable to all of us. Thank you.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I've waited a long time for this day and I'm obviously in opposition to this report. I want to tell you why. This was going to be my longest speech ever, but my leg has decided to act up a little bit more so you can thank whatever God you believe in that I'm not going to talk quite as much as I would have. I hope I speak just long enough to convince you. First, the process in Biddeford was not as I would have desired. Back in August we found out through the papers that there were negotiations going on to have a race track in our city. However, as it came out more and more, it appeared that this time we had some different players. We had Ocean Properties, run by Tom Walsh, a man who does not build inferior buildings; in fact the Samoset, Wentworth By the Sea, just over the border, three hotels in Bar Harbor, Auburn, Bangor, and Sable Oaks. We have the University of New England in Biddeford. We are doing more and more conferences down there. We could use a quality hotel. I resent the people, some in this Chamber, who would indicate that Biddeford voters didn't know what they were voting on when they went to the polls on November 2nd. We had August, September, October, and two days in November. I know a lot of people seem to think Biddeford's not too smart. Well, I take offense to that. We understand something. We understand what jobs mean. I thought I knew what I was going to be doing after

retiring; I'd already made my decision. November 2nd changed everything for me. My husband is now unemployed. You know it's really easy to say something about jobs if you have two and you can say, "Hey, two people working in that family. We're going to be against gambling." It makes a difference if one person is not working, and not by his own desire. I resent people saying Biddeford didn't know what they were doing. We knew darned well what we were voting for. On top of that I'm somewhat embarrassed to say the racino won, about 59% to 41%. It beat me by 2% in my own hometown, I only won by 57%. They know what they were talking about. They were smart enough to elect me. They knew what they were doing on this racino.

The jobs that are coming are construction jobs to begin with, about 800. Good construction jobs. We need to get this started. We need to get it started now. You have forgotten the other peripheral that goes along with it. Veterinarians, have you ever priced what it costs for large animal veterinarians? What about all the people who sell the grain? What about the people boarding the horses? Those are top quality jobs. We talk about Maine and the open spaces. What are we going to keep open spaces for if not for a place to board and train our horses. The horsemen and women in this state have a right to be able to earn a living. What about hospitality? We have whole community colleges teaching a course on hospitality. We're going to have a top quality hotel here. What a place to keep Maine people here, working at what they learned. I could go on and on about the jobs that will be offered. You need to know you are looking at someone who did not support a racino when it was only Scarborough Downs talking because I really didn't think they had the venture capital. They don't. We have it now. We have venture capital here. When I was on BRED, when I was sitting here since, it seems like I was knee high to a grasshopper, in the State of Maine working, but it's only been 13 years. We've always talked about how no one wants to invest in Maine. Our tax rate is wrong. Our structure is wrong. Yet when somebody comes here we seem to find reasons why we don't want them. LMN Natural Gas. We've had wind people for research and development. Now we have somebody here with an international, national certainly and possibly international, reputation that can fund this. They are not going to build half a building, run out of money, and have those steel girders sitting there. We have somebody with venture capital who believes in Maine, believes in the quality of our workers, and believes in the understanding of strong work ethics. They believe in Maine. If somebody's willing to put his money where his mouth is, and certainly this is a large investment, instead of making it hard and asking him to jump through more hoops the city of Biddeford has voted. If we were talking about another Wal-Mart I wouldn't be standing here saying no. We wouldn't be debating this. For some reason we've gotten to the point where here we are hurting and we are deciding, we're holding in judgment, what businesses are good enough to come in and what businesses are not. It's up to the city of Biddeford and we voted and we have the money to back it, but we don't, but we know where we're going to get the money to back it.

I ask you to support the working men and women. I am asking you to support people who want to work, but through no fault of their own are without it. I can speak to that. I have more to say, but I probably will not be able to contain myself to be quiet the entire time, Mr. President. I'm going to sit down to reserve a chance to stand up again and just enthrall you all. Please, vote in opposition to this. Thank you.

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

Senator **ROSEN:** Thank you Mr. President. I ask you all to support the Majority Ought Not to Pass and to send this bill out to the voters as we always have. Every single casino bill in the past has gone to the voters of Maine. That's six times. Voters have said no four times and yes two times. Despite what you might have heard, and even the two yes votes were very close, Maine voters continue to be divided right down the middle. The racino in Bangor was decided by fewer than 30,000 votes and the most recent racino vote saw a margin of victory of less than 5,000, hardly a trend that would indicate growing support. I would also note another very important point, the entire Biddeford delegation and the other Body supported letting the voters decide. Also important to note that all three Senators in the committee supported the notion that voters should decide these gambling issues. They trust the voters. They recognize that this is a matter of fairness. They recognize that this issue remains firmly in the public domain and is not a settled issue by any stretch of the imagination. In fact, I firmly believe that the policy issues are so significant that anything less than allowing voters the right to vote would be a tremendous disservice. Think about the big questions that voters are about to tackle, or that they should tackle. Can Maine actually support five casinos? I would remind you that right now Maine has, at the moment, no casinos and one slot park. Would a vote to pass the casino today jeopardize the revenue stream and the future success and expansion plans of the Bangor facility? Will it deep six the Oxford facility even before it has a chance to begin? Does the state of Maine have even in place the control and infrastructure to support this explosion in gaming across the state? Have voters truly decided? Have they truly decided that Maine will become the gaming capital of New England, with more casinos than the rest of New England combined? Additionally, I would like to remind each of you to follow my light and vote yes, yes to accept the Majority Ought Not to Pass Report. You're not voting for or against the proposal today, you are merely deciding that the voters should continue to have their say on gaming in Maine. We've supported the voter's right to decide every single time before and I would urge you to do so now by voting yes to accept the Majority Ought Not to Pass Report. 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, I wish to echo the sentiments of my seatmate, the Senator from Hancock, Senator Rosen. He will shorten my remarks dramatically because he really made the points I wished to make. I want to make one further point. Besides the fact that in this state Maine citizens expect to be able to make the decision themselves as to whether or not we will expand gaming. It's one of the things I'm still sickened a little bit about. One of the things that sticks in my mind is in some of the paperwork I have here on my desk it suggests that so many people signed the petition as evidence that we should pass this bill right here. I've stood outside fairgrounds and listened to them asking to sign a petition so we can put it on the ballot to decide whether or not we want another casino here, wherever it was. That's the way those petitions are sold. I discount that. People were saying, "Sure, we'd like to have it. We expect it on the

ballot." The real point I want to make today is what we heard from the Senate Chair, the Senator from Penobscot, Senator Farnham, that the committee, the Veterans and Legal Affairs Committee, really hasn't even vetted this bill. Really all they have focused on in committee was whether or not the people should decide this issue. Once they make that decision, they didn't even get to the details of the bill. If you went to the other report you would be asked to vote for a bill that the committee really hasn't even spent any time studying or learning about, or critiquing, or trying to make better. They haven't even done the work on it that would allow it to be explained clearly to us. Ladies and gentlemen of the Senate, as my good seatmate said, the people of Maine expect to make this decision as they have made all other decisions in respect to the expansion of gambling in Maine since 1973. Thank you very much. I urge you to support the current motion.

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, this has been a very contentious issue. In my Senate district there are people who are very much proponents of seeing additional gaming in the state and there are people who are very much in opposition to it. I struggled with this. I vote on each bill upon its merits. I went to Lincoln recently. There was a group of people sitting in a McDonald's and I went in for just a moment and they bent my ear and were speaking in opposition to this. Then I went to another event and I got an earful about people saying that they really wanted me to support additional gaming in Maine. I tried to think about what was the one thing that keeps coming back. No matter where I go, no matter where I am, one thing keeps coming back over and over. "Elizabeth, we want you to work to bring jobs and improve our economy in the state of Maine. We want our kids to be able to get jobs here and, by the way, I'd like a job here too." A lot of these people who have been made unemployed in their 50's are looking for work. It's not easy to find those jobs right now. It's the one consistent message that I have received. This pending motion, I believe, by voting Ought Not to Pass on this, is the wrong direction for us to go. I'm going to be consistent because I was talking about this earlier today, being consistent about improving the economic situation of people here in the state. I truly believe, and I am not in any way, I just want to let you know, a big person in favor of gaming, but on this particular issue I don't think we should be putting up any more delays in the way of economic development in this state. I think that's really what this is about. We have gaming in Maine, we've had gaming and it's been expanded and expanded. We have gaming in Bangor. We're going to have gaming in Oxford County. We have the lottery. We have gaming statewide. This expansion, this is probably the time. To say that we have to delay again and have another citizen's initiative, I just think that the people of the state of Maine have sent one consistent message that we've all heard. We've all made promises in campaign literature and all over the place that we're going work to bring jobs to Maine. We're going to spur economic development. Well, this is it, folks. This is our opportunity and I hope that you will vote against the pending motion. Thank you.

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 have so many people in my district, I represent both York County and Cumberland County, that are really depending on this to pass before we leave here today that I was amazed at the number. "We can't afford to wait," they tell us. They tell me, "We can't afford to wait, the jobs are here now." Timing is of the utmost importance. If we delay this and send it out and wait for November then we're, at best, delaying jobs and certainly we're definitely putting jobs in question. We heard the word disservice used by a previous speaker. I think the disservice would definitely be not taking advantage of what we all campaigned for and we all want, and that is more jobs. There is one more wrinkle to this. Scarborough Downs, which has been trying to survive over the years, already houses about 200 jobs directly. They are going to have to depend on this actually working in Biddeford. It's existing jobs, not losing jobs, and getting more jobs. We have all the ingredients. We have the funding. We have the local support. The host. All they need now is us. 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 opposition to the motion before us, the Ought Not to Pass Report. I rise for several reasons. First among them is jobs. Jobs. Another big reason is revenue. Revenue for this state. Not the least of my reasons are the principles of fairness and equity. The debate as to whether or not Maine is a gaming state is over. Maine is a gaming state. The only issue before us is whether or not winners and losers will continue to be decided in referenda. We hear over and over and over the refrain, "The people have always voted on this." That's absolutely right. The people have voted because their elected leaders have punted. There is nothing about this particular issue that requires that we must advocate what we were elected to do, which is to make decisions on public policy for the people who sent us here. This bill before us will benefit both Southern Maine and my part of Maine. Since 1993, for 18 years, this issue has been debated in this Body. In 1993, when this issue was first debated in this Body, it was the Passamaquoddy Tribe and the people of Washington County who introduced this debate to this state. Now, nearly two decades later, we have seen gaming come to Maine. We have seen what it has done for the city of Bangor, where none of the doom and gloom scenarios have played out, but rather we see revenue. We see economic activity. We job creation.

I'd like you for a moment to put yourself in the place of the Passamaquoddy people and the people of Washington County who, for generations, have endured the highest rates of poverty, unemployment, and all that goes with it. I sat on the Senate floor the first time that I was here to debate this issue. It is an indignity to be told by the people in this building that we don't have a right to determine our own economic future. I have often heard people lament the fact that many people in my district are in a position in their life where they are dependent on programs. I'll tell you what, I know a lot of them, maybe even most of them. I can tell you that what they are most interested in is to be able to live in the place that they love and to make an honest living. They would like to be able to have a job. Here we are, 18 years later. Poverty continues. Our Native American neighbors are left wondering why. What is the answer to the question as to why their proposal,

the one that began the debate remains unresolved and they remain on the outside looking in, nearly 20 years later. We have been bypassed. We've been bypassed in this process. I would also let you also know that if you talked to the storekeepers in Calais, that many of them are now, unfortunately, former storekeepers. I could give you names of people who have traveled from Calais to this building in the past to lobby for this, to try to save their businesses. It's too late for many of them. It is too late. Come to Calais and ride down Main Street. Look at the empty storefronts and ponder the decisions that have been made in the past with respect to this issue. We have been bypassed in this process and we are bypassed quite literally by tens of thousands of tourists who drive right through Calais. They probably look out their side windows at the empty storefronts on their way to New Brunswick or Prince Edward Island or Nova Scotia, or from Prince Edward Island or New Brunswick or Nova Scotia on their way south. If we are lucky they need gas. Maybe they'll stop and get a tank of gas and while they are there they might even buy a Coke or a pack of gum. That's what we're left hoping for because our efforts to become a destination, which this would allow, have been thwarted in this building and by the fact that there aren't enough votes in a rural small place like Washington County to sway an election. If there were we wouldn't be having this debate because the people of Washington County have voted over and over again for this come to our county. The last vote it was 70% of the people in Washington County. I'll tell you, that cuts across every political divide from Conservatives, Christians, Republicans, to liberal Democrats. Strong support throughout my county. In the city of Calais, where the racino would be built if ever we're given the opportunity that has come to other parts of this state, 80%. Can you imagine 80% support for hope, for the potential of job creation, for a restoration of dignity, for an opportunity to control our own economic fate, and to put an end or at least to help to put an end because it's not a cure-all to years of being bypassed and living with the consequences of the highest rates of poverty and unemployment in the state.

Biddeford, likewise, is a community that could use opportunity. A community, like my own, has voted to welcome it. I would also note that the project in Biddeford has a developer at the ready; not a developer looking at the state for a handout, but a developer at the ready to invest in Maine. That's what we say we want. We say we want it, but some people in this particular instance say, "Well, the people have voted." Yes, they have voted because we have punted. Are we consigned to a future that, because we've made that mistake in the past, we have to forever send issues related to this out to the people and can never take the reins of leadership? We can never do what we were voted to do by the people who elected us. I hope that you will join with me in turning back this report and in rejecting the notion that we cannot lead, that we cannot make the tough decisions, and that areas of Maine must continue to wait and to be told, "No, you have to wait until somehow you can raise enough money or have enough influence to get the votes of people who may live six hours away and have never once stepped foot in your community." I don't think that is the right answer. I tell you it's not the right answer for the people I represent. I do not believe it's the right answer for the people of Biddeford. I do not believe that is the right answer for the people of Maine. I hope you will join with me in rejecting this report so we can move on. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Colleagues and friends, before I start my regular remarks, I want to start off by saying I have supported Scarborough Downs and the classy lady by the name of Sharon Terry who has done a good job at Scarborough Downs, the Sire Stakes folks, the harness racing, the horsemen, the fairs, all those related to horse racing, OTBs, non-profits, and veterans organizations, all of which I have supported 100% with the exception of sending the issues out to referendum except for once. I am like Senate President Raye from Washington County. Before I say anything about Washington County, the others that I left off were the tribes. In 2007 this Body and the other Body, and a lot to do with me, decided that the tribes deserved a chance for the very reasons the good Senator spoke of; dignity, jobs, all those issues. I'll tell you one thing right now, I respect the tribes so much because they came up to me and said, "Senator Patrick, I know you are going to vote Ought Not to Pass. We will not hold it against you because you were one of the strongest advocates we ever had here in Augusta." I'm doggone proud of that.

Ladies and gentlemen of the Senate, I rise today before you in strong support of the Majority Ought Not to Pass of L.D. 1203. For decades administrations and legislators have insisted that the citizens of Maine be the final arbiters of gaming expansion. All six of the previous gaming referenda have been left up to our citizens to decide because the Governor did veto that one in 2007. I wish he hadn't because we probably would never have another one in the state of Maine. My committee heard arguments on both sides of this issue and voted overwhelmingly 11-2, and one of the two voted against because he was a former resident of Washington County. I understand what he was saying because he understands the plight that they are going through, the same plight that the people of Oxford County are going through as well. I understand that. As a committee it was our position that we need to honor the process that we have always asked all gaming projects to follow. That is to send the bill out to referendum.

Despite a vigorous and well funded lobbying campaign, unlike I've ever seen in my life, my resolution remains as strong as ever to send the citizens initiative to the voters, as it was intended. Gaming in Maine is an extremely sensitive, personal issue to everyone in the state of Maine because gaming, gambling, has a moral decay to it that zaps people's dollars and sends them to some rich person, mostly on Wall Street, as there has always been. It is for that reason that we never need to look at the process that has preceded us here today. Every previous attempt at expanding gaming in Maine has gone out to the statewide citizen's vote. This should be no exception. In fact, I would argue that it's even more important for this to go out to a statewide vote since, for the first time in a decade, the voters are agreeing to a gambling expansion in 2010 by allowing a casino in Oxford. Would voters have voted the same way if they knew their vote would be interpreted by this Body as a carte blanche to all gaming propositions? Let's not forget that nearly 50%, or 96.6%, of our citizens who voted in 2010 still oppose the expansion of gaming. I believe Oxford probably would have failed as well had it not been the deplorable conditions of employment, not only in Maine but in the United States of America. I just gave a speech on the downward harmonisation and this is part of the downwards harmonisation as well.

Today we are being asked to rubber stamp the largest gaming expansion in Maine's history. If this passes, along with L.D. 985, Maine will have more gambling facilities than all five other New England states combined. If these casinos are passed there will 7,500 slots machines authorized in Maine. I will tell you, as someone that sat on a committee, 3,000 scared the heck out of the people in the state of Maine. That is one slot machine for every 100 adult Maine citizens. Wahoo. Do you think the voters of Maine should weigh in on whether or not they want to live in a state that has one of the highest per capita slot machine authorization laws with one of the lowest per capita incomes east of the Mississippi? I don't think so. Lesser gaming proposals have been decided by the people of our state. Should the people decide on this one too?

I've heard from the Biddeford Downs lobbying team that legislators should support it because the town voted on it. Well, we've heard from one person. That's not convincing enough for me. First we believed that it was Biddeford Downs' intentions to have the Legislature decide. Why did they go through the trouble and expense of collecting thousands of signatures? Next, there seems to be mixed reviews out there. All three members of the other Body are opposed to it, the members in Biddeford. Biddeford's voting record on gaming is inconsistent, at best. What I can tell you is that in 2000 Biddeford residents opposed slots at Scarborough Downs and in 2003 opposed the Sanford casino. They did support the Bangor racino and the Oxford County racino, both in 2008 and 2010. I've heard some of my colleagues say we need to do something for the Native Americans. That I believe with my whole heart and I hope we can find something. If for some reason the proponents of the Biddeford racino couple their efforts with expanding gambling to Calais, I would be proud to co-sponsor legislation to put a gaming facility in Calais in a couple of years. I'm extremely cognoscente of acting on the issues facing the tribal nations. We, in this Body and the other Body, ought to be ashamed of ourselves for the treatment that they've had. Frankly, it's not unlike those issues facing the rural parts of our state. We've heard how Aroostook County has been and we had chances to do something up there and we didn't do it. We turned our backs on those folks several times this session. Quite frankly, if the Passamaquoddy's had presented their bill alone my floor speech might have been different. It would have been different. However, the Passamaquoddy's have elected to be part of the Biddeford referendum.

Jobs. Yes, we've heard this is a jobs bill. All casino proposals tout jobs and we still ask the voters to decide this, not withstanding this promise of jobs. I'll leave you with this, are we prepared, as legislators, to endorse the largest expansion of gaming in Maine's history without the vote of the people? Are we prepared to authorize 7,500 slot machines in Maine? Are we prepared to do this without a clear mandate of our voters? Are we to deny our citizens from weighing in on such a massive gambling expansion? If we are so confident that this is a good deal, then the projects will be passed by the voters. If not, they will fail. I will say one thing about Ocean Properties. Everything I've heard about Ocean Properties has been fantastic. I've played golf at one of their resorts, Samoset. They did a fantastic job. Will they build a great racino? I have no doubt about that. They have the skills, the expertise, and the knowledge. This is a gaming facility.

Ladies and gentlemen, I don't know if any of you do, but I do gamble. I make no bones about it. I just took my wife to Las

Vegas in April. We stayed at the Imperial Palace. The Imperial Palace is a 30 story high building. I was in there and I came down and talked to the pit boss. I asked him, "How many slot machines do you have in this huge facility? There must be thousands." He said, "No, we have 850." Then I went to the MGM, the largest in Las Vegas. They don't even have close to 3,000. Maine is a tourist destination and for years this Body has been doing things to try to get more tourists here. Maybe the heading on the sign, that sign down there, if it's there on Craig's List or whatever, maybe instead of Las Vegas it should be Las Maineagus, where everyone is going to want to come to Maine. Ladies and gentlemen, Oxford County had two votes. One was for Rumford. I actually proudly told the sponsor that I was going to kill this bill because, yes, the citizens of Rumford voted, they voted a lot different than Biddeford, but they voted and I voted against it to kill it and send it out. This time around the Representative from Lewiston, Representative Carey, was faced with that daunting task. He voted to send it out because it's the right thing to do.

I gamble, ladies and gentlemen, because I can afford to gamble. I don't have a problem. I understand it. What is going to a casino? I'll just give you an example of \$100. You take \$100 and you put it in a slot machine that pays 89%. What does that mean, pays back 89%? Whew, that's great. That means that's a factor of amount of time you're going to be able to play with your \$100 because it pays back a little bit, pays back a little bit, and the next thing you know it's gone. It's just like the stock market. For every person that takes profit there are 100 people that lose. A matter of fact, the best gambler in the world said he would not go to Wall Street any more because he got burned too many times. Even though I gamble, yes Lord I am a sinner, I do understand that there is a moral decay to this aspect. Three times when I came back from Las Vegas out of 24 times I actually came back with money. I went there knowing that they were going to get my money, but I have a good job. As I said, I make around \$70,000. I can afford losing a little bit, and I don't take a whole heck of a lot with me because I know what it's going to do to my family life. I can even turn a dollar into \$2.50 for someone.

Ladies and gentlemen, we are going to get some visitors here to Maine; July, August, and September. I ask you, with those 7,500 machines, where is the rest of the profit going to come from? Where is it going to come from, folks? It's going to come from Mainers. It's going to come from Mainers and if you think that it's not then you are mistaken. Ladies and gentlemen, I can't remember right off the top of my head, I know I have the figures in my thing, but one of the organizations, and I can't remember if it's Hollywood Slots or not, takes in \$680 million. That's one organization. What is five going to do? It's like \$3 billion taken out of our economy. Who's going to go to L.L. Bean. Who's going to go to Wal-Mart? They are going to have to go to the Dollar Store because they are not going to be able to afford Wal-Mart because they don't have the money.

I'm going up to Hollywood Slots on Sunday with my wife and family. I don't have any problem saying that because my kids live up in Lincoln and Old Town. It's a fun place to go if you can afford it. Chances are my kids and myself and my wife are going to lose our money. I don't mind that because it's an entertainment value. Who can afford to lose this money consistently in this economy? I've gone up there and most of the time, I think they have 1,000 machines up there, there is not a problem getting on a machine. I've seen the people there. I've actually looked at the license plates. How many out-of-stater's are there? Not many

unless it's on a Sunday that the high stakes bingo happens to be because the high stakes bingo actually subsidizes Hollywood Slots. Gaming eats its own young. There are only so many dollars out there for gaming. Boy, I hope we get a lot of the out-of-stater's money because I don't want to have many people in Maine get it.

We talk about jobs. Where are we headed, ladies and gentlemen? I think I heard from the head honcho of the University of Maine that we're going to change our focus. Instead of competing against the Chinese and the Indonesians and South Americans or the Europeans on engineering we're now going to be offering majors and masters in gaming. How to deal. How to be a pit boss. How to be a cocktail waitress. Wow, that's exciting. We're talking about thousands of slot machines, ladies and gentlemen. How many people even know how we got involved in this crazy mess of gaming? Shawn Scott, from Las Vegas, was smart enough to actually put the racino bill in the same time there was a casino bill. I'll tell you one thing, ladies and gentlemen, a casino scared the heck out of people more than a racino. Perfect timing. Perfect situation. Under the radar. The casino actually spent all the money. The racino hardly spent any money. The bill got passed. Is Shawn Scott up in Bangor right now? Where is Shawn Scott? He sold that. I think after everything and all the smoke cleared he got like \$75 million for the deal.

Now let's get to the Biddeford vote and the Rumford vote, Lewiston vote. In Rumford, when we had the casino vote, we actually had three or four town meetings prior to having our election. It was really interesting because for two weeks in advance we always said we were going to have the organization come in. They were going to explain the gaming. Then we had another one two weeks later. We had the people come. We had the notice in the newspaper and stuff like that. What actually happened down in Biddeford? I asked that question, ladies and gentlemen, and I really didn't like the answer that I got because, although they did have a vote on that, on August 17th, two weeks prior to that, was there a notice in the paper saying the selectmen or town counsel was going to discuss gaming? Was there any notification to the people of Biddeford? The answer is absolutely not. As a matter of fact, what happened was the 11th thing on the agenda, prior to adjournment, was executive session to talk about a property issue. Did they have the vote after they came out of the executive session? Well, it was passed by a large margin. I'll tell you one thing right now; if you come to Rumford and spend \$175,000 to say that this is going to bring jobs and prosperity to Rumford we're going to get a lot more than 59%. We're probably going to get 80% because people want to go to work. From that standpoint, I don't really there was real notification and shame on Biddeford for that because if you think I'm fooling I've had them deliver me the official municipal office meeting report.

The Senator from Washington, I really feel his pain for the tribes. I sat on the Legal and Veterans Affairs Committee different years. The harness horse racing association and the fairs, I have always worked to try to do something to benefit them. As a matter of fact, ladies and gentlemen, when Shawn Scott passed his first initial bill, being what I say is basically a crook from Las Vegas, in the original referendum for the racino he was going to get 75% of the take and 25% to Maine. I was part of the committee that got 39% for the state of Maine and the organizations. That's a lot better than 75%. I have been here since the original and I haven't really changed my stance. I don't even know what the casino that the citizens of the state of Maine

passed in a referendum election is actually going to do for the betterment of Oxford. I know it will be a destination place and I know it will help out, but what's it going to do to the people that are still out of work, for the canneries, the tanneries, and stuff like that? I really don't know. I'll take Bangor, for instance. Have they done well? Well they are lucky to have one of the largest cities in the state of Maine. I'm happy for them and I've actually supported them on other issues to try to make things a little bit better. We just passed simulcast for them. The issue is what has it actually done to the surrounding towns? Where do the people come from for Hollywood Slots? Where are the people going to come from for Oxford? Where are the people with the money going to come from? When I go up on Sunday I'll be willing to bet I see two or three seniors from Rumford. I'll know the seniors and I'll know basically that they have enough disposable income that they can go up and have fun gaming. They know it. I've talked to several of them. As a matter of fact I even had a talk with one at church. I'm not worried about those that can afford it. We don't talk about addiction. We don't talk about those that we have a law on the books that they can take their name off the list so they can't go back there.

Maine is a gaming state, and I've always said for years that it's a gaming state, so why are we playing games? Are we going to be a Las Vegas of New England? You wonder why people are in support of the Ought Not to Pass Report. It's simply. How many people in the state of Maine really want to expand gambling 300%? I've had an awful lot of people say to me that they'll be glad when Oxford opens up, but what are we going to do if we have five? It's too bad, ladies and gentlemen, but the jobs at Hollywood Slots are pretty decent jobs. I've actually talked to a lot of people. They are pretty decent jobs. There will be pretty decent jobs at Biddeford Downs. I've always supported Scarborough Downs. As a matter of fact, I was the one who helped get the 4% in their payout. I also helped the horsemen, the fairs, and the breeders. I'm proud to do that. We talk about being able to compete in an open marketplace. What is this going to do to Oxford and what is this going to do to Bangor? Who's going to survive? Is it up to us to choose which one is going to survive? I hope not, ladies and gentlemen. Do we want jobs? Yes, we do, but do we want to have a gaming state where all the jobs that we now have are with gaming?

I'll finish off with my last thing, because I know I've been way too long and I know I'll get up again for sure. If this is the way we're going to go, ladies and gentlemen, why don't we go like that state, there is one state in the Union, that has 17 casinos. Ladies and gentlemen, we do not have a casino in Northern Maine. We have two or three borders in Aroostook County. I think it is Madawaska and Fort Kent. Why don't we have one up there? When will we stop? Every job that we're going to have is going to be casinos. I'll tell you another thing, in Las Vegas if you go one street beyond the strip then you find out what Las Vegas and gaming is all about. I'll tell you one thing right now, it's not a well known fact, that there is more doggone crime over there because they have so many casinos and stuff. I'm not saying that's what is going to happen in Maine, but I'll tell you one thing right now, this might be about jobs, but are we going to take the immoral jobs of gaming and suck everyone's last dollar out of them? I hope not, ladies and gentlemen, and I would ask you to support the Ought Not to Pass.

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

Senator **HASTINGS**: Thank you Mr. President. I rise with a little bit of cynicism here because I remember two years ago the similar, if not the same, debate we had regarding the Oxford County proposal. We debated whether or not that should go out to the voters or whether or not we should approve it right out of the Legislature. I just looked it up. Twenty-six of the members in this Body said to send it out to the voters. Many of those same people who are rising today and urging us say that this was a mistake and that we need to do it ourselves. What has changed? Didn't we need jobs, economic development, two years ago? Apparently not to most of this Body. If we had voted, if we had passed that out at that time, the Oxford County casino would probably be up and going at this point. Isn't Oxford County a rural area of Maine? High unemployment. High poverty. I understand the need for development in Washington County, but, darn it all, it is not the only place in Maine that needs economic development. Oxford County is just as needy. We seem to be just putting that by the wayside. We're not going to let Oxford County get up and going. We're not going to make sure we can get those jobs in place in that part of the state of Maine. I hear that this is a wonderful project. Ocean Properties is a wonder project and has great financing. Let me tell you about the Oxford County project. You must know this is not an out-of-state firm that has come in and is trying to capitalize on Oxford County. This is a project put together by good people from Maine. The Grover's of Norway. The Barber's of Barber Foods. Bob and Gary Bahre, two of the most successful businessmen to come out of Maine in many, many years, who are putting their money where their mouth is to develop jobs and the economy in Western Maine. Why, for the life of me, we do not allow that project to get up and going, to let those jobs be created, before we decide if we need more casinos in this state. I'm a cynic I guess, but I don't see what's changed in two years. Thank you very much. I continue to urge the support of 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, we've been here much too long and I'll try to be very, very short. I'll match my statute. First of all, I resent what has been said about Biddeford. I also resent being compared to the people in the other Body. I'm up here as a Senator. I represent the entire part of Biddeford except for about 2,500 people that I'll allow the good Senator from York, Senator Hobbins, to also represent. I don't represent the downtown exclusively, nor do I represent the people in Ward 1 along the ocean exclusively. I represent the Biddeford people and they voted and I'm here as their voice. We knew what we were doing. What the good Senator from Oxford, Senator Patrick, referred to as far as the minutes, it is exactly what I started my speech off with the process in Biddeford. It was not ideal, but there were meetings afterwards and before it went on the ballot. People in Biddeford, people who were hurting, voted for \$30 million repair to our high school. People who are hard working, people like my husband and I, voted for that school. Yet we have one person unemployed in my home. Biddeford people know what they want and what they are doing. He's referring to a letter that was put out by three counselors. Two of those counselors voted the first time. Both of them represent Ward 1, which is along the ocean. The other one is a person who does not believe in gambling, and,

in fact, bar drinking. He has not allowed one license for alcohol to be served in anything, not even a Class A restaurant. They are entitled to that. I will not have the city of Biddeford insulted as I sit in this, nor will I have my reason about my vote and why I am in this Senate and what I represent.

As far as what people spend their money on, people, you cannot legislate morals. A number one reason for homelessness is alcoholism. Why don't we just stop selling alcohol entirely? We tried it once. Didn't work for very long. Only thing we put did was put it in the Constitution and immediately repealed it. People spend their money on drugs. People are going to spend their money on what they want. I'll tell you why there are fewer slot machines in other places. It's because they have more table games. Ask anybody at a casino, table games is where they make their money. That is the big money. That's why Bangor is asking for 20 tables. That's why the LVA, or VLA now I guess, from last year decided to try to give Bangor their tables. I've tried very hard not to say anything about last year and what we did in LVA, but that was my committee and I did Chair it. We tried very hard at the end, and we couldn't get people to come and agree that we would have a standard so that if you wanted to have a casino in Maine there were standards, this was how it would be divided out, the money, and this is what would happen. We couldn't get people to agree. Guess where we were? Oxford and Bangor fighting each other. You opened the door to gambling. That's the difference between now and two years ago. You opened the door. We opened the door. Venture capital is venture capital in this state. We begged for it.

All of a sudden I represent the entire city of Biddeford. I have received eight e-mails on this, eight. Five from Saco and three from Biddeford. Two of those three in favor. Isn't it amazing. Biddeford knew what they were voting on because, yes, they did vote against one when we were talking about one in Sanford or one in Biddeford or one in Kittery. Way back when Casino No was here and Dennis Bailey was involved. There were meetings every single time on that. In fact, the York County delegation joined. Times have changed. Vote as you want to, but you won't knock my city or the fact that I am voting differently than what my colleagues did or in the other Body. I still hold the right to have the voice I want in here that I believe represent my constituents. I may pay the price. You want to talk about lobbying? I've been here for a long time and you have surpassed the bottle bill. Anybody that has been here for any length of time knows my love affair with the bottle bill. I'm disappointed in the way much of this has been run. I'm disappointed that people have tried to pit one colleague against another. It seems that all we care about is winning. Our law firm, or our side, or our whatever. Maybe that's why we don't have a budget and maybe that's why we are here and having this type of end to the session. Biddeford is not a dumb community. I resent being told we don't know what we are doing. People will spend their money. Again, I will remind you, if there is a McDonald's and there is a Tim Horton's and there is a Burger King, the entire state's not concerned. Can the city of Biddeford decide if they can have all three of those or if one will fail? We assume that those three companies have done business plans. They have done demographics and they decide if the concentration is large enough to take all three. If you don't believe it's right go find a McDonald's and turn your face around and you'll find a Burger King, a Tim Horton's, or a Kentucky Fried Chicken. How many casinos? It doesn't hold that we are trying to protect the state by not having too many of something. Maybe

we have too many fast foods. Sure would help my body shape if we didn't have quite as many.

Why have I changed? I think I explained that. We finally have somebody coming to the state of Maine that has venture capital to put here. They are willing to invest. It's not going to be done and stopped in the middle because they ran out of money, or the bank wouldn't allow them, or there has been a downturn. They've got it. You vote as you want. I'm okay with that, but don't you try to down play my city and down play what I'm doing here and try to make me feel bad because the three colleagues in the side didn't vote that way. I've listened to that just about long as I intend to listen to it anymore. My word means something. It has always meant something. It's all I have. I wish I made \$70,000. I've taught for 28 years and I just barely top \$50,000 now. I was so scared by that amount I decided to retire. I know about making pennies stretch. I know about what it is to want to have people working in your family. Don't go and tell me the Biddeford people didn't know what they were doing. The process stunk at the beginning. I admitted that right up front. We are where we are months later. I have been quiet. I have not gone to the papers. I have not gone to a committee hearing. I kept my mouth shut because the people of Biddeford needed to speak and I needed to listen. You have not seen one quote in the papers from me. There is a reason why. I listened. The Biddeford people are smart. I will hold onto my integrity and what I have said here and what I am doing here. Thank you, Mr. President.

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, this time I'm not going to be a windbag. I just want to touch on a couple of things. We talk about how times have changed. Yes, they have changed. We've just gone through the biggest downturn in the economy. I think it was a depression. Everyone says it was a bad recession. What has that done? It has slowed the economy, slowed wages, and slowed growth. Our economy in Maine is stagnant. I will say one thing to the people of Biddeford, I have been going to Biddeford for 37 years. I played pool, competitively, at the Biddeford Eagles and they are some of the nicest, most hard working people in the state of Maine. They come from a working class background, just like I do. I do not disrespect anyone in Biddeford. I have the utmost respect for the people in Washington County. I've been to Calais numerous times. What this is about is that we have a moral obligation to regulate things. Are we going to throw caution to the wind with not regulating cigarettes or liquor or a lot of the other things we regulate? It is our moral obligation. Do we want to expand gaming to the umpteenth degree? Take a look at Hollywood Slots' business plan. Did I like it? Did we give them some breaks? Yes, we did. We allowed them to build in Miller's Restaurant. I think they had 450 or 480 slot machines on because it was a good business plan. They were actually making money so when they built their big Hollywood Slots it was good fit. We actually helped them out and I'm proud of that. The business plan in Oxford is three phases. I have no problem with that because it is right-sizing their businesses. Both these businesses want to be profitable. If these should happen to pass I hope they right-size them because, I'll tell you one thing right now, they won't right-size them with 1,500 slot machines each because the money is not there, ladies and gentlemen. This isn't about disrespecting any people or any town or any community. What

this is about is that we, as Senators in this Body and the Representatives in the other Body, have a moral obligation. Do we want the purification of gaming when the income of the people in the state of Maine is going to go broke? I'm not going to tell anyone not to go gaming. No one tells me to go gaming. No one tell me how much to give the church. I do and that's my choice and it's everyone's choice. I said it in the previous bill. I'm not going to tell people what to do. I'm not going to try to change their lives unless they ask me. Ladies and gentlemen, I'm ready now to vote for the Majority Ought Not to Pass. Thank you.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I came to the Legislature not wanting gambling, but the horse is out of the barn. I voted against the previous bills. I'm voting in support of this bill because this bill is different. This bill is better. This bill creates jobs. I'm just going to briefly tell you a little bit of a story because I think there is some suggestion that somehow this kind of industry doesn't provide the kinds of jobs that we want here in Maine. I'd just like to tell you the story of a young man who was dirt poor, lived in Goshen, New York at the harness racing track there. He moved to Carmel, New York. Spent his life as a young man taking care of horses at the Carmel, New York harness race track. He went on to college. Became a very successful businessperson. Later became a philanthropist and purchased the harness racing track and land that now serves as the Fred Dill Wildlife Sanctuary. My grandfather started in harness racing and he became a huge contributor to his community and it started at the harness racing track. There is no reason to deprive the people of these areas of jobs. A job is an opportunity. What we need in Maine is opportunities. I encourage you to vote against the pending motion. I would just say, finally, that is certainly a pleasure to be on the same side of a vote as the Senate President. Thank you very much.

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

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#217)

YEAS: Senators: ALFOND, BARTLETT, COLLINS, FARNHAM, HASTINGS, HILL, HOBBS, JACKSON, MARTIN, MASON, PATRICK, ROSEN, THIBODEAU, THOMAS, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, GERZOFISKY, KATZ, LANGLEY, MCCORMICK, RAYE, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, TRAHAN, WHITTEMORE

EXCUSED: Senators: GOODALL, PLOWMAN

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, FAILED**.

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

READ ONCE.

Committee Amendment "A" (H-400) **READ** and **ADOPTED**, in concurrence.

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.

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

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

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 Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#218)

YEAS: Senators: BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, KATZ, LANGLEY, MASON, MCCORMICK, RAYE, ROSEN, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, SULLIVAN, TRAHAN, WHITTEMORE

NAYS: Senators: ALFOND, BARTLETT, HASTINGS, HILL, HOBBS, JACKSON, MARTIN, PATRICK, THIBODEAU, THOMAS, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

EXCUSED: Senators: GOODALL, PLOWMAN

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**, in concurrence.

The Chair laid before the Senate the following Tabled and Later (6/7/11) 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 7, 2011, by Senator **FARNHAM** of Penobscot

Pending - **ACCEPTANCE OF EITHER REPORT**

(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 7, 2011, Reports **READ**.)

Senator **FARNHAM** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

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

Senator **FARNHAM:** Thank you Mr. President. Again, I would just say this is another one of the citizen initiated bills that came before the Veterans and Legal Affairs Committee. The suggestion I had to the committee on these was to do the same to both items. Both citizen initiated bills came to us in the same way, the same exercise was done by the citizens of the state of Maine to get the signatures on the petitions. They came to the committee in the same way, although the potential behind both of the citizen initiatives referendums is different. They both came to us the same way. I have a motion up there as the majority of the committee was Ought Not to Pass, but again I'll just ask for you to consider how you want to handle this bill as far as whether or not you support past practices or support what you just did in the last vote. That's what kind of what happened in the committee.

On motion by Senator **SNOWE-MELLO** of Androscoggin, 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 Androscoggin, Senator Craven.

Senator **CRAVEN**: Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion. I certainly am not a gambler, nor do I promote gambling. The citizens of my district voted 2-1 in favor of having a casino in Lewiston. I am here on their behalf to do my best to have their preference done. We have very high poverty rates in Lewiston, about 24% of our children live in poverty. I'm afraid that people seeking riches and quick money will spend their money on gambling as opposed to saving it and spending it on their families. All of that said, our community has worked very, very hard to set the stage for a casino in Lewiston and have made investments and have done their due diligence. Mr. President, I ask the Body to follow my light. Thank you, Mr. President.

THE PRESIDENT PRO TEM: 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 in full agreement with my fellow Senator from Androscoggin County, Senator Craven. I do represent Androscoggin County and the city of Auburn, where we have the folks showing tremendous support for this L.D. 985. They did a petition drive and it was overwhelming how many people wanted this to come up and want us to vote on this issue. Once again, I am not in favor of gambling, but, once again, you have to stand up and speak for your people back home and the wants and needs that they express to you. I'm going to ask you to please help us out and vote in favor of L.D. 985. Thank you.

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

Senator **JACKSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, very quickly. I am not against gambling. Actually I think I've got a \$25 winning ticket in my pocket for the Megabucks from last night. I don't do much of it because I don't have very much money to begin with, but I just wanted to get up and explain that I was not against the previous motion. I thought if Biddeford and the tribes wanted a casino I had no problem with that. I just thought where everything else had gone out to referendum probably people should follow the same process. Now that we've opened that door, I certainly don't have a problem with Lewiston having the opportunity. Honestly, probably now that we don't have to go out to referendum I'm probably thinking about doing something for Aroostook County. I am in favor of this motion. That's why I'll be supporting it. It certainly wasn't any slight to Biddeford because I hope they do great things with theirs now.

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, I guess things are changing. I guess we're going to be having a vote here coming up real shortly as to whether or not this is just a fluke or whether or not the members of this Body want to allow gaming everywhere. My colleague to my right, the Senator from Aroostook, hopefully will have one casino or racino up in Aroostook County sooner or later because there are horse racers up there as well. There are a lot of Canadians there. I think that

if we're going to throw caution to the wind I'm hoping that you all follow suit. The committee vote didn't make any difference last time, so I'm hoping that the same issues that prompted you to support the first initiative will now prompt you to vote in opposition to this Ought Not to Pass and go on to pass this bill. Thank you.

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 just rise to the comments about Aroostook County. We have Hoover's up there with several hundreds of millions of dollars. We have McCains, which produces about one half a billion dollars worth of products. We have Loring Development Authority with about 400 or 500 jobs on there. I think if you would allow the spray rules to go we might even increase our profit with our potatoes. We're doing very nicely, thank you.

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

Senator **JACKSON**: Thank you Mr. President. I'd also just like to add if you let American and Maine loggers cut wood in Maine we'd do a lot better also.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#219)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, DILL, FARNHAM, GERZOFKY, HASTINGS, HOBBS, MASON, MCCORMICK, ROSEN, SHERMAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: CRAVEN, DIAMOND, HILL, JACKSON, KATZ, LANGLEY, MARTIN, PATRICK, RAYE, SAVIELLO, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN

EXCUSED: Senators: GOODALL, PLOWMAN

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

Senate at Ease.

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

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

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Revise the Maine Clean Election Act Regarding Legislative Leadership Positions"
H.P. 789 L.D. 1054

Report "A" - **Ought Not to Pass** (10 members)

Report "B" - **Ought to Pass as Amended by Committee Amendment "A" (H-513)** (2 members)

Report "C" - **Ought to Pass as Amended by Committee Amendment "B" (H-514)** (1 member)

Tabled - June 9, 2011, by Senator **COURTNEY** of York

Pending - motion by Senator **FARNHAM** of Penobscot to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in concurrence (Roll Call Ordered)

(In House, June 8, 2011, Report "A", **OUGHT NOT TO PASS READ** and **ACCEPTED**.)

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

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

Senator **WOODBURY:** Thank you Mr. President. Women and men of the Senate, this bill involves some revisions to the Maine Clean Election Act which I believe correct what I think are the single most flagrant abuses of that Clean Election system. The Clean Election system was created following a 1996 referendum. The referendum question read, "Do you want to adopt new campaign finance laws and give public funding to candidates for State office who agree to spending limits?" This referendum passed overwhelmingly. What is the abuse? Here is the issue. A legislative candidate registers with the Ethics Commission as a Clean Election candidate. In becoming certified as a Clean Election candidate, they agree to the following, I'm reading from the manual for candidates in Maine from 2010: after certification the candidate's prohibited from accepting any private contributions. All subsequent expenditures by the campaign must be made exclusively with public funds received under the MCEA. The ideals behind this are to at least some degree take the influence of money, of monetary contributions to campaigns, out of politics to help level the playing field across candidates in a race so that the campaign can focus on issues without being tainted by the influence of interest group contributions. Candidates apply to do this. They say they are going to agree to these guidelines. Here's the problem. The problem has been

that at the same time people have become certified as Clean Election candidates on the one hand they are developing or creating political action committees, typically known as leadership pacts, that are going out and raising money from the same interest groups in order to use that money to influence political campaigns in which one or more, and typically all, of the candidates are Clean Election candidates. I find this practice to be completely hypocritical and to seriously compromise the integrity of the Clean Election system almost to the point of sinking it. This bill would restrict the practice. If you want to be a Clean Election candidate on the one hand you cannot at the same time be a leader in a political action committee that is collecting money to influence campaigns, many of which are Clean Election races. I urge you to defeat the Ought Not to Pass motion so that we can move forward with improving the Clean Election program. Thank you.

At the request of Senator **PATRICK** of Oxford, Reports **READ**.

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

Senator **SCHNEIDER:** Thank you Mr. President. I share the concerns of the previous speaker about pacts in general and about the influence of that money on the Clean Election system. However, I have a question I'd like to pose through the Chair.

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

Senator **SCHNEIDER:** Thank you Mr. President. One of the concerns I've had is how leadership would run, given we don't fund leaderships in a Clean Election way. If we voted against the pending motion, how would leadership run their leadership campaigns?

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 Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Mr. President. Thank you for the question. I've always thought that leadership here ought to be determined by one's capabilities, ability to convince one's colleagues that they are the right person to lead the Chambers, to have a leadership role, not by how much money they raised through a political action committee when they are saying they are a Clean Election candidate. I just find this practice highly hypocritical and not relevant, frankly, to what creates a strong leader for this Body.

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, I will also try to answer the question. The debate in committee was basically that what the result of passing this would be would be to lower the amount of people, probably by around 20 or 30, that utilize the Maine Clean Election system. That is probably detrimental as well in that the Clean Election candidate does not and cannot use

one dime of the Clean Election money for anything but his or her campaign. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Farnham to Accept Report "A", Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#220)

YEAS: Senators: ALFOND, BARTLETT, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFISKY, HASTINGS, HILL, HOBBS, JACKSON, KATZ, LANGLEY, MARTIN, MASON, PATRICK, RAYE, ROSEN, SCHNEIDER, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: BRANNIGAN, MCCORMICK, SAVIELLO, SHERMAN, TRAHAN, WOODBURY

EXCUSED: Senators: GOODALL, PLOWMAN

27 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **FARNHAM** of Penobscot to **ACCEPT** Report "A", **OUGHT NOT TO PASS**, in concurrence, **PREVAILED**.

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 Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike Authority

H.P. 1130 L.D. 1538
(S "A" S-271 to C "A" H-354)

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, I rise to briefly just state that the amendment that was added onto this deals with a retroactive look back at terms. I just wanted to say that for the record because in the past there have been many people who have been against retroactivity and I want to put it on the record that this is one piece

that has a retroactive piece in it. Though I'm in support of it, I just want to let people know that this is definitely there. Thank you very much.

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 Pro Tem, was presented by the Secretary to the Governor for his approval.

Acts

An Act To Improve Maine's Energy Security
H.P. 436 L.D. 553
(C "A" H-572)

An Act To Support Farm Programs at Department of Corrections Facilities
H.P. 513 L.D. 685
(C "A" H-569)

An Act To Amend Seasonal Licenses for the Operation of Beano or Bingo Games
S.P. 441 L.D. 1427
(C "A" S-252)

An Act To Protect Consumer Information at the Efficiency Maine Trust
S.P. 478 L.D. 1516
(S "A" S-267 to C "A" S-198)

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

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

An Act To Amend Standards for Participation in Certain Public School Services by Students Who Are Homeschooled
H.P. 888 L.D. 1197
(C "A" H-571)

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

Resolve

Resolve, To Reduce Funding to Maine Clean Election Act Candidates
S.P. 215 L.D. 726
(C "A" S-253)

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Resolve, To Amend the Rules Concerning Long-term Care Services To Better Support Family Caregivers

S.P. 232 L.D. 739

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-205)** (6 members)

In Senate, June 1, 2011, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Comes from the House, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-205) AS AMENDED BY HOUSE AMENDMENT "A" (H-518)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Amend the Process of Federal Aviation Administration Airport Improvement Program Grants"
H.P. 585 L.D. 778
(C "A" H-193)

In Senate, May 12, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-193) AS AMENDED BY HOUSE AMENDMENT "A" (H-479)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **COLLINS** of York, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Provide a Temporary License To Operate a Public Dance Establishment"

H.P. 645 L.D. 878
(C "A" H-299)

In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence.

In House, June 8, 2011, **RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1170.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299) AS AMENDED BY HOUSE AMENDMENT "A" (H-578)** thereto, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Amend the Laws Governing Comprehensive Planning To Encourage the Development of Affordable Housing"
H.P. 743 L.D. 1007
(C "A" H-320)

In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence.

In House, June 8, 2011, **RECALLED** from the Governor's Desk pursuant to Joint order H.P. 1171.

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

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

Non-Concurrent Matter

Bill "An Act To Limit Interest Assessed against Municipalities"
H.P. 984 L.D. 1343
(C "A" H-323)

In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence.

In House, June 8, 2011, **RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1166.

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

On motion by Senator **THOMAS** of Somerset, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Establish the Maine Wild Mushroom Harvesting Certification Program"

S.P. 436 L.D. 1407
(C "A" S-149)

In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence.

In House, June 8, 2011, **RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1169.

Comes from the House, Bill and accompanying papers **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act To Amend the Laws Concerning the Child Care Advisory Council and the Maine Children's Growth Council"

H.P. 1093 L.D. 1486

In Senate, May 26, 2011, **PASSED TO BE ENACTED**, in concurrence.

In House, June 8, 2011, **RECALLED** from the Governor's Desk pursuant to Joint Order H.P. 1167.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-593)**, in **NON-CONCURRENCE**.

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

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

PAPERS FROM THE HOUSE

**Pursuant to Statute
Department of Health and Human Services**

The **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying 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

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

**Pursuant to Statute
Department of Health and Human Services**

The **Department of Health and Human Services**, pursuant to the Maine Revised Statutes, Title 5, section 8072 asked leave to report that the accompanying 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

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.

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

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: H.C. 196

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

June 9, 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 accepted the Minority Ought Not to Pass Report of the Committee on Judiciary on Bill "An Act Concerning Tort Claims and Governmental Entities" (S.P. 377) (L.D. 1256)

Sincerely,

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

READ and ORDERED PLACED ON FILE.

The Following Communication: H.C. 197

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

June 9, 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 accepted the Majority Ought Not to Pass Report of the Committee on Taxation on Bill "An Act To Provide an Internship Employment Tax Credit" (S.P. 413) (L.D. 1336)

Sincerely,

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

READ and ORDERED PLACED ON FILE.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Bill "An Act Concerning Solid Waste Facility Citizen Advisory Committees"

H.P. 522 L.D. 693

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-444).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-444) AS AMENDED BY HOUSE AMENDMENT "A" (H-500)** thereto.

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

READ ONCE.

Committee Amendment "A" (H-444) **READ.**

House Amendment "A" (H-500) to Committee Amendment "A" (H-444) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-444) as Amended by House Amendment "A" (H-500) thereto, **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

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act Regarding the Attendance of Attorneys at Pupil Evaluation Team Meetings" H.P. 822 L.D. 1110

Had the same under consideration and asked leave to report:

That the House **Recede** from **Passage To Be Engrossed As Amended By Committee Amendment "A" (H-251)**. **Recede** from **Adoption of Committee Amendment "A" (H-251)** and **Indefinitely Postpone** same.

That the House **Read** and **Adopt Committee Of Conference Amendment "A" (H-590)** And **Pass The Bill To Be Engrossed As Amended By Committee Of Conference Amendment "A" (H-590)** In **Non-Concurrence**.

That the Senate **Recede** and **Concur** with the House.

On the Part of the Senate:

Senator MASON of Androscoggin
Senator HASTINGS of Oxford
Senator DIAMOND of Cumberland

On the Part of the House:

Representative STRANG BURGESS of Cumberland
Representative RANKIN of Hiram
Representative RICHARDSON of Carmel

Comes from the House with the Committee of Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE OF CONFERENCE AMENDMENT "A" (H-590)**, in **NON-CONCURRENCE**.

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

The Senate **RECEDED** and **CONCURRED**.

Senate at Ease.

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

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

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

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