

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

In Senate Chamber
Thursday
April 5, 2012

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

Prayer by Pastor James Proctor of Corinth United Methodist Church.

PASTOR PROCTOR: Thank you for the privilege of sharing this moment with you. What would it feel like for you if, at the close of the legislative session this Spring, you returned to your home district and found the following response prevailing among your constituents? You folks sure did a fine job in Augusta this year. There might be something today has to offer that might help produce that result. Today, in the Christian tradition, is known as Holy Thursday. Today we remember the last supper that Jesus shared with his disciples the night before he was crucified. At that supper, Jesus did something most unusual. He washed the feet of the disciples. Foot washing itself was not unusual. It was a common custom of welcome for guests among the people of the day. Jesus washing the feet of the disciples was unusual because it was commonly done by the servant at the bottom of the pecking order. None of Jesus' disciples was willing to lower himself to the task, so Jesus showed them what leadership looked like. The Master humbled himself and washed their feet. I believe there is something in this act to learn from, regardless of ones faith traditions. The concept that stands out most is that of humility. Humility is more than simply thinking sober thoughts about ones failings or importance. In fact, the essence of humility is to not consider ones self at all. It is to place ones self at the disposal of others. It is being a servant. Here are two possible ways humility might play itself out in the Legislature. First, imagine if in the midst of every committee meeting, debate, or vote each legislator was to ponder the following thought: the ones who disagree with me on this issue are people of value who have something worthwhile and beneficial to add to this discussion. How much better our state would be if their wisdom could be part of the solution to this problem. How would Maine be different if this were the prevailing attitude in the State House. Second, what if each legislator said in regards to the district they represent: what resources, expertise, or wisdom does my district have to offer to the state for the benefit of the whole state? What if instead of seeking to bring home the venison, or the pork, as the case may be, instead of trying to make sure we protect the interests of our individual districts, we all sought to represent our district in service to the state. Imagine, as the Legislature was considering some difficult need such as a regional waste facility, a prison, or a State mental hospital, or whatever generally undesirable project comes to mind, imagine the legislator rising to say, "When I look over our fair state and the resources available in various regions to meet this need, it seems like the best site for this project is my district." What if instead of, "Not in my

backyard" each district said, "My backyard is at your disposal if it serves the best interest of the state." What of instead of working so hard to protect our own right to life, liberty, and the pursuit of happiness we worked to enhance the life, liberty, and happiness of the rest of the state. Humility says somebody else has a good idea, seek it out and value it. Humility says whatever good I have I offer it in the service of others. In preparing this moment of inspiration, it occurred to me that this may not strike some here as at all inspiring. I ask you to consider this: how inspiring do you think it would be for the people of this state if these kinds of attitudes were pervasive in the Legislature? Who will lead the way in restoring the servant aspect of civic leadership and civic service? Gracious God, I pray today that You would grant this Senate grace for humble leadership, for taking the leadership in humility, and for the courage to lead the state with the heart of a servant. O God, bless this Senate. Bless these Senators. Pour out Your blessing upon the people of the state of Maine. Amen.

Pledge of Allegiance led by Senator Brian D. Langley of Hancock County.

Reading of the Journal of Wednesday, April 4, 2012.

Doctor of the day, Lisa Ryan, DO of Naples.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations"

H.P. 1078 L.D. 1469

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-887).**

Signed:

Senator:
PATRICK of Oxford

Representatives:
CAREY of Lewiston
CHIPMAN of Portland
LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco
WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-888)**.

Signed:

Senators:
FARNHAM of Penobscot
PLOWMAN of Penobscot

Representatives:
BEAULIEU of Auburn
DAMON of Bangor
JOHNSON of Eddington

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-887)**.

Reports **READ**.

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

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Clarify Case Management Supervision Authority and Ensure Access to Case Management Services" (EMERGENCY)

H.P. 1244 L.D. 1692

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

Signed:

Senators:
McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-782)**.

Signed:

Senator:
CRAVEN of Androscoggin

Representatives:
EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

Comes from the House with 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-782)**.

Reports **READ**.

On motion by Senator **MCCORMICK** of Kennebec, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-782) **READ** and **ADOPTED**, in concurrence.

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

Senate

Pursuant to Joint Rule 309

The Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act To Ensure a Reliable Funding Stream for the Department of Inland Fisheries and Wildlife"

S.P. 551 L.D. 1652

Received by the Secretary of the Senate on April 4, 2012, pursuant to Joint Rule 309.

On motion by Senator **MARTIN** of Kennebec, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

Ought to Pass As Amended

Senator WHITTEMORE for the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Extend the Scope of the Maine Guaranteed Access Reinsurance Association"
S.P. 569 L.D. 1670

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-522)**.

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

READ ONCE.

Committee Amendment "A" (S-522) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

SECOND READERS

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

Senate As Amended

Bill "An Act To Establish a Presidential Primary in the State"
S.P. 659 L.D. 1882
(C "A" S-517)

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

Sent down for concurrence.

Off Record Remarks

ENACTORS

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

Mandate

An Act To Prepare Maine People for the Future Economy
S.P. 439 L.D. 1422
(C "A" S-477)

Comes from the House, **FAILED ENACTMENT**.

On motion by Senator **LANGLEY** of Hancock, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in **NON-CONCURRENCE**.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the following Tabled and Later (3/29/12) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Comply with the Health Insurance Exchange Provision of the Patient Protection and Affordable Care Act"

H.P. 1098 L.D. 1497

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-840)** (7 members)

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

Tabled - March 29, 2012, by Senator **WHITTEMORE** of Somerset

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, March 28, 2012, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840)**.)

(In Senate, March 29, 2012, Reports **READ**.)

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

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

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, if you've looked at this, it's been around a while. This says in the title that it deals with the so-called exchanges in the Affordable Care Act. It really doesn't. That's the first thing to say, this does not deal with the exchanges other than it says something about the so-called navigators. Those of us who proposed and feel good about Obamacare, we feel that rather than exchanges we'd like to use the word "marketplace". The marketplace is where people will be able to go and select

what insurance they are going to have, those who don't have it at work, and those that will need help. There are all kinds of help that is needed. This bill just says it will be insurance agents. First of all, they can't be just insurance agents. The Act doesn't allow one type of navigator. Secondly, you can understand that many people, either those who don't have insurance now or are having a hard job making decisions, will need somebody who understands that, somebody who works for some of the federally chartered folks out in the countryside, or even in the city of Portland. These are people that are involved with this. We need them to be the navigators, probably. Anyways, first of all, this is premature. There was a lot of discussion about whether the folks on this bill wanted to do anything, and really they've done nothing. You are asked to vote for this even though it is out of date and out of touch. There will be another bill along dealing with the exchanges and we hope you will be looking forward to that. The Chamber of Commerce, which isn't always my cup of tea or whatever, they say we're missing a real opportunity here. We're supposed to be doing an exchange. We're supposed to be getting ready for January 1st of next year. We're supposed to have an exchange in place by that time. If we don't do an exchange the federal government will come in and do an exchange. There may be a way that the Governor can call people in. Maybe they'll give a little on January 1st when those of you who are coming can rush in and put an exchange together. When we get to the exchange bill itself, I'll talk more about the long preparation and the two years that we've been working on this. This bill reflects none of that work. I would appreciate it if you'd vote against the pending motion. 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, this bill does deal with navigators. It deals with navigators if and when we have an exchange. The amendment requires that the Superintendent of Insurance develop criteria for the selection and certification of navigators prior to the establishment of any State exchange. This bill also allows licensed producers to become a navigator. Quite simply put, that's what this bill is all about, navigators. 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, I stand as well in opposition to this bill because, number one, the State of Maine has already accepted \$6 million to create exchanges. This bill violates the federal rules on exchanges. I think that that really is not a very wise place to go when we're accepting money to set up exchanges and then, before the Supreme Court makes their decision, we are making our decisions here about the exchanges or marketplaces, as my friend call it. This amendment, as I understand it, does not set up a state based health insurance exchange. Instead it regulates navigators. I think that is a little bit like the problem we had when Dirigo Choice had Anthem workers sell or set up people with Dirigo Choice. Of course, it would seem to me that it was a major conflict of interest for Anthem people to be selling another product. I think that this is similar to what's going to happen here

if we don't allow other navigators besides insurance brokers to be the navigators for the product. I would recommend that you vote against this measure. Thank you.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, let's take a moment to put in perspective some of the health care emergency in Maine. A Portland Press Herald article in December, "Employers Win, Lose as Health Law Shifts Premiums". Mid-Maine Restoration Inc., a small Edgcomb based company that restores church steeples, got clobbered with a 35% increase in its insurance bill for next year, 10 times the increase it got a year ago. The stunned owners quickly shopped around for a better deal, but couldn't find one. The Maine Bureau of Insurance compared the renewal quotes sent to 734 small businesses in October to those sent out during the same month last year. Overall more companies, about 9%, saw an actual decrease in premiums this year than last, but at the same time a slightly larger number of companies also saw hefty increases of 60% or 80%. In the report, the impact of P.L. 90 on Maine's health insurance market, page 14, talks about how beginning July 1, 2012 insurers can charge rates using a 3 to 1 age band on the open block and additionally can surcharge premiums up to 50% for geography. This change will result in higher premiums for the older demographics and for individuals who live in more expensive regions. Similarly, the same report, on page 25, talks about how 11% of groups which include 7% of small group members will experience premiums more than 10% higher, an average of 20%, than what they would have experienced in the absence of P.L. 90. In general, these are groups with higher average ages or groups located in areas of Maine with higher geographical rating factors; the Downeast, North, and North Central. We have a problem created in P.L. 90, L.D. 1333, or at least it exacerbated a problem, in which we have winner and we have losers in health insurance costs. The exchange is what's supposed to provide options to deal with that. My district is one of the most rural, no large cities, and the most elderly in Maine. People in the district are not strangers to hard work and it includes a great many occupations that include danger, one of the factors in insurance costs, from fishing to farming to woodwork. They still deserve affordable health care. They deserve better than to be told they are the losers on the actuarial tables when health care premiums are not within their reach. Maine needs the real price advantage that a health insurance marketplace, a State exchange, would create.

The bill before us, L.D. 1497, started out as an exchange bill, but has been watered down to just addressing navigators. In doing so, it only allows insurance agents as navigators. Unfortunately, that provision clearly does not meet federal rules. Even if the individual mandate were to be overturned, Maine people need and will benefit from the robust exchange, which includes community outreach to the uninsured. That is true for two reasons. First, health services premiums will be more cost effective as more people become insured. The role of the community outreach navigator is to facilitate that with solutions most beneficial to people. Second, it's only through the exchanges that Maine people will get any federal subsidy to make premiums more affordable, which it does on a sliding scale for individuals at or below 400% of poverty level and for small businesses, such as Mid-Maine Restoration who I described

earlier, who will be offered a 50% tax credit starting in 2014. The Affordable Care Act also subsidizes out of pocket health expenses for people between 133% to 250% of poverty level. L.D. 1497 does not move Maine any closer to an exchange that makes sense for Maine, nor does it provide any relief for all the people and small businesses seeing higher insurance premiums under current law. Lots of people see the advantage of creating a State exchange for Maine. Maine Health is a strong supporter for the State exchange plan, so is the Maine Chamber of Commerce, yet this bill does nothing about creating a Maine exchange.

We've been talking a bit about what L.D. 1497 doesn't do; let's talk about what L.D. 1497 does. Section 2C, Permitted Insurance Producer Activity, states that only a person licensed as an insurance producer in the state may facilitate enrollment of an individual or employer in a qualified health plan offer through an exchange. Certification of Navigators, Subsection 3C, states that prior to an exchange becoming operational in this state the Superintendent shall adopt rules that require a navigator to carry and maintain errors and emissions insurance. Neither subsection complies with the final rule dated 3/27/2012. The Federal Health and Human Services Department Navigator Programs Standards, Section 155.210, which states that they accept the suggestion that states and exchanges should not be able to stipulate that navigators hold an agent or broker license and clarify that states or exchanges are prohibited from adopting such a standard, including errors and omissions coverage. It goes on to say that establishing licensure standards for navigators would mean that all navigators would be agents or brokers and that would violate the standards set forth in Section 155.210(C)(2) of the final rule that at least two types of entities must serve as navigators.

Back to L.D. 1497, with the proposed amendment. Subsection 4C, in conjunction Subsection 7, rules have been proposed, or even in L.D. 1497 as it stands now, that require navigators to be fingerprinted or, in the amendment, I've heard proposed for this, allows it to be established as a routine technical rule by the Commissioner. Fingerprinting of individuals who are not suspected of any crime contradicts the spirit of the Fourth Amendment, which protects against unreasonable search and seizure. To submit to fingerprinting is to become forever after included in the national database, which law enforcement across the nation searches every time it works to solve a crime. This bill allows the Superintendent to treat insurance navigators as potential criminals, undermining their presumption of innocence. Navigator Requirements, Subsection 4D, holds navigators to the same standards as licensed insurance producers, a provision which is unnecessary since federal rules do not allow states or exchanges to require that navigators hold an agent or broker license. Unfair Practices, Subsection 5, states that the duties of a navigator are deemed to constitute the business of insurance. Once again, by mandating that navigators are insurance producers, this subsection violates the final federal rules for exchanges. In fact, Section 155.210(C)(2) requires that community and consumer focused non-profit groups must be one of at least two types of entities that are utilized as navigators. If you remove all the sections I've just discussed as not meeting federal rules, it nearly reduces it to the glossary of definition of terms. Let's fact it, L.D. 1497 doesn't do anything to address the health care emergency and creating an exchange. Every part of what it does do fails to comply with federal requirements. If you are thinking of passing L.D. 1497 so you can say you got something done, then don't bother because you are fooling yourself. Given what it does and what it doesn't do, I have to

believe that this is far too focused on health insurance producers. Doctor/patient care is what Maine people need. Frankly, I believe that the actual health care providers and the people of Maine needing health care also deserve our attention. This bill attempts to exclude them from the process. We are here, after all, to serve the people and the people of my district did not send me to Augusta to enact this kind of smoke and mirrors. They need and deserve real solutions to make their health care accessible and affordable. Health providers, such as Maine Health, agree that we need a State exchange to tackle health insurance costs. Small businesses like Mid-Maine Restoration clearly need a health benefit exchange. The Maine State Chamber of Commerce supports having a State exchange. This bill does nothing, nothing at all for Maine people. 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, this is an extremely confusing area to those of us not involved. I feel qualified to speak for two reasons. One, I feel this is a pretty simple bill. Two, I was named after a navigator. My father was a pilot in WWII and his navigator was named Roger. He died in combat and I was named after him. I feel a unique qualification to speak on the subject of navigators. I think this is a simple bill. It simply says that if the exchanges are established that there are two classes of people who can be navigators. One is licensed insurance producers, who I assume by virtue of their licensing are qualified to be navigators. Secondly are others who will receive certification from the Superintendent of Insurance. That's how I read the bill. It doesn't prohibit non insurance producers from being navigators. It simply says that if John Smith, off the street and doesn't have an insurance license, wants to be a navigator he's got to seek certification from the Commissioner. I talked with the Superintendent of Insurance and he has assured me, at least, and other members of our caucus that this bill is, in fact, in compliance with federal law. I urge its passage. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Whittemore 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 (#446)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-840) **READ** and **ADOPTED**, in concurrence.

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

The Chair laid before the Senate the following Tabled and Later (4/2/12) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Correct Inconsistencies and Ambiguities in the Maine Guaranteed Access Reinsurance Association Act"

H.P. 1254 L.D. 1702

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-847)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-848)** (6 members)

Tabled - April 2, 2012, by Senator **WHITTEMORE** of Somerset

Pending – **ACCEPTANCE OF EITHER REPORT**

(In House, March 30, 2012, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, April 2, 2012, Reports **READ**.)

Senator **WHITTEMORE** of Somerset moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)** Report, in concurrence.

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

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I hate to keep boring you with insurance matters, but we must. The two reports, A and B, are exactly the same except that this group, the Maine Guaranteed Access Reinsurance Association, which has come out of the bill that some of you passed last year, the L.D. 1333 that set up a risk pool, this guarantee group is the one who is going to run this risk pool. They will decide who gets in, who gets out, who doesn't get the regular insurance, and so forth. All we're saying is that we

think there should be some transparency with this group. This group will operate in the dark as far as we know. We at least think they ought to have their meetings published, know when they are, be able to see them, see minutes, see something from this group. Our group wants some transparency. The Majority Report says they will be silent. I would appreciate a vote. 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, this is all about transparency. I understand. In fact, I think the transparency question is definitely taken care of in regards to all MGARA operations will be filed with the Bureau of Insurance and made available to the public. The public will have access to what goes on in these meetings. This is a private entity. It's not required to be open to the public, as are many other private organizations. We don't feel that it is necessary for this entity to operate efficiently having the public present. Again, they can have all of the information they want. It will be made public through the Insurance Board. Thank you, Mr. President.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, in a recently published report Maine was rated 46th in the nation at being transparent. That, in my estimation, would rate us an F. Anything we do to prevent more transparency will only drive us down to an F- which, in most of the educational fields that I've ever been, is a terrible grade. I'll, therefore, be voting in opposition to this because I want to raise our rating a little bit. Thank you.

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

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I want to point out that this is not a public board that we're talking about. This is not an agency of the State. This is a private non-profit corporation, the equivalent of the existing Maine Individual Reinsurance Association, Maine's Health and Life Guarantee Association, Maine Insurance Guarantee Association, and the Maine Self Insurance Guarantee Association, all of which has been established in previous years by this Legislature; all of which are established as non-profit private organizations. We have made the conscience policy decision in P.L. 90 that we will use a private reinsurance vehicle to fund those in the new proposed insurance program who are unable to obtain insurance with regular rates. This is a private entity. This government should not be deciding that it is inserting itself into the operation of private entities. The fact that it is going to be involved in the reinsurance program, its report and all of its documentation will be submitted to the Bureau of Insurance and subject to approval by the Commissioner of Insurance. It is only whether or not we will be inserting ourselves into the operation of private organizations. Ladies and gentlemen, I believe that is exactly the wrong way to go. If we wish to have this function done by a State agency, fine. If we have decided, as we may in many areas of government, to contract with private entities to

provide public services, does that mean that the public has a place at the table, in the board of directors, and in the management of that company? The company that plows the snow in your town, does that mean that the town meeting has a place in the board meeting of that small corporation? Think of it. That's where you are taking this. That's the road this is taking us down. There are plenty of checks and balances. The reports will be provided to the Bureau of Insurance and subject to the approval of the Commissioner of Insurance. Thank you very much. I urge your support of the pending motion. Thank you.

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

Senator **BARTLETT:** Thank you Mr. President. This is striking to me. I think this is about not just transparency but, more importantly, accountability. This is not like any old contract that a municipality or any other government entity might enter into with a private party. It's not as if the snow plow removal company is coming to town and saying, "For \$20,000 we'll provide you this service," and you know the terms of it. Quite the opposite. This entity, which we are now calling a private entity, is given taxing authority under the law. They get to determine how the premiums are calculated. They can increase the premiums from \$4 to \$6 a policy. They are given taxing authority by this State. Imagine if we were to send the Tax Committee off into a corner, not let the public in, and just have them tell somebody what the tax rates are going to be. Is that acceptable, that we don't get to understand the deliberative process, that people can't attend, that people can't even know when so they might want to provide the information to the entity that could be helpful as they are assessing the tax rate? This is stunning to me that we are afraid somehow of transparency. We've seen so many bills before this Legislature trying to give the Executive Branch more control over various quasi independent agencies. The argument that is used over and over again is we need greater transparency and greater accountability. Here is someone who can set a premium rate, a tax rate on premiums, and we want that closed? That's not acceptable to most people in my area. I know my constituents aren't going to like it. This isn't a big change in the Minority Report. It is simply saying to let's have it open for review. If you are making decisions that are going to affect every policy issued in the state of Maine, and you're going to have the right to increase the tax on those premiums, you ought to do it in daylight. You ought to do it so people can see what's going on. That's not too much to ask. 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, I think that transparency is very important when people's lives are at risk and on the line, whether or not they are going to get insurance. Everybody who buys insurance actually is charged a premium without their consent. Everybody in the state of Maine that is paying those premiums from their private insurance deserves to have transparency in the process and the actions that the committee's going to take. I think that being 47th in the nation for transparency doesn't seem like a Maine value. I urge you to vote against this. Thanks.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, let's say I came to this discussion feeling much like some of the previous speakers about the need to increase transparency in government and certainly not being proud of our position of being 47th in the country in how we do things now. Whether it's the Maine Turnpike Authority or other government agencies, there is a burning need to shine the light on their operations. I changed my mind on this one when I thought a little bit more carefully about what it is exactly this agency is being asked to do. Anytime that we are charged more money on our insurance policies it's troubling to all of us and it is something all of us have to pay and hundreds of thousands of people have to pay. It's true that this agency, which is a private agency, has some impact on those insurance rates, but nobody is arguing that we open up Anthem's meetings as public meetings and allowing the public to attend those meetings. To me, what this company is doing is essentially what Anthem is doing. It is setting an insurance rate that doesn't go into effect just because they say so. It is an insurance rate that is proposed. It goes to the Insurance Commissioner, a filing goes to the Insurance Commissioner and is subject to the scrutiny of the Insurance Commissioner, and, under certain circumstances, it will be subject to public hearing and challenged within the department and in the court. Just because this is something which affects all of us and all of our pocketbooks, I look at it in the context of health insurance. Until we are willing to ask Anthem or Harvard Pilgrim or any of those other companies to make all of their corporate meetings, all of their corporate board discussions, open to the public, and hopefully we're never going to get to that point, this organization need not be subject to that scrutiny either. You are dealing with proprietary information provided to them by various insurance companies. The results of their work will go to the Insurance Commissioner. Those filings, as I said, will be subject to his review, his challenge, and the challenge of others in the appeal process. I want to be for more government transparency, more government accountability, but it's dangerous to just stamp that label on everything that comes across our desks and say we have to do it because of that. I think a closer look at this one says that this position shouldn't prevail. Thank you, Mr. President.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, just to be clear, two weeks ago or whenever we had the debate about not allowing Anthem to just go ahead and blanketedly get less than 10% increases on their policies, I fought against that. I definitely, or at least for my part, thought I was allowing transparency into the Anthem rate increases. I'd just like to say that we're 47th and seem to be falling fast.

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

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, correct me if I'm wrong, but I don't understand how you can say the work done by the Maine Guaranteed Access Reinsurance folks is the same thing as

Anthem setting rates on policies because insurers set rates and consumers choose who they want to get insurance from. As far as I know, no one will have a choice whether to avoid the surcharges set by this group. I think that you are looking at it right if you think that this is comparable to other insurance companies. It enjoys a special privilege. Proceedings need to be open to public view.

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

Senator **DILL:** Thank you Mr. President. I am not an expert in this area and I have a question, if I may ask it through the Chair?

THE PRESIDENT: The Senator may pose her question.

Senator **DILL:** Thank you Mr. President. My question is actually two parts, but for the passage of Obamacare, would this entity exist? How much of the money that the entity will get in premiums are taxpayer dollars?

THE PRESIDENT: The Senator from Cumberland, Senator Dill poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Alford.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not going to answer those questions. I did spend a couple of years in the Insurance and Financial Services Committee, but I wasn't there when L.D. 1333 passed. Going back to what the good Senator from Kennebec said, I think his example also falls short just because the only reason that this Maine Guaranteed Access Reinsurance non-profit, private non-profit, exists is because of L.D. 1333. This is not a business that was raring to go before L.D. 1333 came across our desks. That is why I think I'm hearing from this side of the aisle that people are so disgruntled about the lack of transparency of what's going on in this bill and it is also a little bit of reflection of a little hang-over from L.D. 1333 that I think many of still don't believe was the correct public policy for this state. We're starting to see it, as the good Senator from Lincoln suggested, in some of the rates across the state on some of our small businesses. You all have the votes. You can keep transparency out of this private non-profit. That is your right. By no means is comparing this to Anthem, I don't think, is a fair example. 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, first of all, this is a private insurance that the State of Maine, the Legislature, we on this side of the aisle mostly, approved. The initial funding is through an organizational assessment which many health insurance policies are funded by. It's an assessment upon insurance, not our taxpayers. Its ongoing funding will be through a combination of reinsurance premiums. It will charge health insurers and projected assessment upon health insurance policies. There are currently three other associations funded by assessments upon insurance. That was mentioned previously in other testimony. It is just very important to note that since this is a private insurance

company these meetings should be private. MGARA is a private non-profit association whose members are all insurance companies, all of which have private sector entities. By contrast, Maine's Freedom of Access applies to transactions of public entities and associations of public entities as specified in 1 M.R.S.A. 422. Expressed public policy behind the Freedom of Access Act is that public proceedings are the people's business and should be conducted openly. By contract, MGARA is a private entity. That is the difference. 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, MGARA is something that stands for this group. It's an acronym. I'll try to answer the question. Certainly Obamacare, which we are proud of and therefore attached to his name, and if it passed or not passes. This is all that we did last time. This is all that dealt with L.D. 1333 or Public Law 90. This goes on no matter what. I think the thing people have to look at is to remember that when that law passed it allowed \$4 for everybody. Everybody has to pay \$4 on their policy, not just the people that are in the risk pool. We can go up to \$6. The analysis that was done by the Gorham Group for the Bureau of Insurance has some doubts as whether \$6 is going to be enough. This group is going to be dealing with some very important issues. I'm sure others will say that will all go through the Bureau of Insurance and we'll listen to the Superintendent. The Superintendent isn't quite as independent as he used to be. They will be the ones handling things, so don't worry about it. It is transparency or not. It is dealing with fees, if you want to call it taxes, if you want to call \$4, \$6, or more. Thank you, Mr. President.

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

Senator **DILL:** Thank you Mr. President. Thank you, Senator Brannigan, for answering my question. I think this is outrageous. I think this is absolutely outrageous that every single Maine consumer of insurance is going to pay, by law, between \$4 and \$6, or more, per month to this so-called private entity who can meet privately and without any sunlight. What are we doing here? This is ridiculous. Why should an entity that collects public money, by law, be able to meet privately without the public being present, without oversight and accountability? This is going to move Maine from 47th to 48th, 49th, or 50th. I guarantee it. Thank you, 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'll be very, very brief. Transparency shall be available through the Bureau of Insurance. 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 just got to stress one more time.

This is not public money. This pays for a product. A private health insurance product. The person that receives that product pays for it. It is not public money.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I've thoroughly enjoyed the conversation about transparency this morning. Maine being 46th is just terrible. I guess one of the questions I would ask, Mr. President, is where is the outrage for the last 30 years? I can tell you that some things have happened to try to change transparency since we came in a couple of years ago, in 2010. We took a look at the Maine Turnpike Authority and the Director was sent to jail.

THE PRESIDENT: For what purpose does the Senator from Cumberland, Senator Dill, rise?

Senator **DILL:** I don't believe the Senator's remarks are germane to the matter that is pending before the Body.

THE PRESIDENT: The Senators would be reminded to focus on the bill that is before us.

Senator **COURTNEY:** Thank you Mr. President. Absolutely, Mr. President. A few minutes ago one of the speakers mentioned that the Gorham report doubted that there could be enough, but if you reach into the Gorham report and talk about the details of it, you would find that the Gorham report, some of those suggestions are not based on actual current premiums that the people of Maine currently pay. The Guaranteed Access plan was put in place so it would inject more competition and that was the goal. Mr. President, I understand the concern about transparency and I am very much in favor of transparency, but we have repeatedly been referred to as trying to worsen the transparency in this state. There is nothing further from the truth with this bill. With this bill, once the private association makes their recommendation, it goes to the Superintendent of Insurance. All documents are available to the public. That is all a public process. There are many other organizations that were created in previous years; Maine Insurance Guarantee Association, Maine Life Health Insurance Guarantee Association, and Maine Self Insurance Guarantee Association. All these were created as separate entities and this is created the same way. In addition, you might think of the Maine Principal's Association. Is the MEA Benefits Trust, is that one that we should be holding public hearings on when we deal with those? I know there are more. I don't have them all in front of me. Mr. President, I believe that we have worked to improve transparency. We have stood up, we have looked people in the eye that have wanted to keep the status quo, and we have said we're going to improve transparency. I'm especially pleased, Mr. President, with regards to transparency and I think it is intricately related to this bill and process. The process of this bill, this Maine Guaranteed Access board will have transparency through the Superintendent of Insurance. I am pleased because the President has been a leader in transparency for this new Legislature. Before a legislator could actually direct money to a specific area where he was a chairman of the board or a director of a company. There were millions and millions of dollars that went across the state and it was directed by elected officials and that wasn't even

reported. Mr. President, I believe there is a new day with transparency in this state and the next time one of those things are taken we're going to be way above number 46.

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

Senator **BARTLETT:** Thank you Mr. President. I don't have any idea what that last bit was about, but what I do know is that we have a bill before us with two options. It seems to me that the big split in the committee is whether there ought to be transparency. I've just heard justification of why it is not necessary or why it's not in there, but I've not yet heard one reason why it would be harmful to add it. Why is it harmful to allow these meeting to be public? I haven't heard it. I guess I would pose that question through the Chair, if I might, Mr. President. If anyone could explain the harm that would be caused through this added transparency. Thank you, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. I'd be happy to answer that question because this is the same question that I had, Mr. President. Just as Anthem does in setting their own rates, we're dealing with proprietary confidential information that has been gathered by private companies. This authority does exactly the same thing, Mr. President. It takes proprietary confidential information from a number of companies, analyses those facts, has it actuaries work over those facts, and then reaches its decision; a decision which again, Mr. President, would be subject to the full review of the Insurance Commissioner and all of the appeal rights which are intended thereto. Thank you.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, it has been no secret, and I won't try and hide it. I did not support L.D. 1333. I got up more than enough times, I'm sure, in many people's minds fighting against it. I think that many of the things that I fought against then have been borne out that it has not been good for Aroostook County. I think that it's also consistent with the debate we had just last week. When you take money from the public then you have a responsibility to let the public know what's going on. If we didn't have that \$4 tax onto this that everyone was paying, then you could say that absolutely that they don't have the right to look at what's going on in there. Once you start taking money from people I think you lose that right. I don't know, I'm sure maybe there is a case that somebody can bring up or whatever and that's fine. At least for my part, the things that I've argued consistency-wise, I believe that if you want to repeal that \$4 tax then you can keep these meeting closed, not transparent. When you've taken that money from everyone, you've lost that right. I don't think that it's wrong or out of line or anything to ask for the public to have at least a look at what's going on here because they are certainly footing the bill for it.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Whittemore to Accept the Majority Ought to Pass as Amended by Committee Amendment "A" (H-847) 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 (#447)

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

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

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-847) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-847)**, in concurrence.

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 Support Members of the Law Enforcement Community Who Have Suffered a Catastrophic Illness

H.P. 1402 L.D. 1900
(C "A" H-858)

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, I stand in support of L.D. 1900. I was proud to cosponsor this bill. The persons who were affected and brought

about the need for this bill are here today. I want to tell you a little bit about what happened. When the law enforcement community found out about what Kim LaPlante and her husband were going through, Mrs. LaPlante was very ill and she had cancer, they took up a collection to try to help Mrs. LaPlante. The money ended up having to be returned because we have a provision in law that says you just can't do this. It didn't seem right. It really didn't seem right that when the people who take such good care of us want to take good care of each other, and ask us to help, that we couldn't do it. This is a very limited approach, but it does allow for just this kind of thing to be able to be done. Deputy Robbie Pelletier and Mr. and Mrs. LaPlante, Kim's parents, are here and they will be at the signing in a little while, which why we are taking this up out of order. This is one of the good things that we do and this is one of the good things that we did quickly because it seemed so simple, but yet so necessary. I want to thank you all for helping us move this through while the family is here and I want to just say that I'm sorry that we had to have to do this in the first place. It's not too late and we wish you well. 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, this bill I can rise in support of. Honestly, it's the type of legislation that you see and you think that it makes a lot of sense, not really even knowing all of the particulars about it. Until recently I didn't realize that Ms. LaPlante was the daughter of the LaPlante's from Cyr Plantation. I'll be very honest that I don't know that I know the LaPlante's. They are in the Senate District that I represent. Despite anything political or anything like that, I just was made aware of it. I see a picture of their daughter. It seems to be a real shame that something like that would happen to someone that seems to have such a great future. A mother with children. I don't mean to make anyone feel bad or anything, but I certainly am very sorry for your loss. If there would be anything I could, I certainly would do whatever I could to help.

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber the family and friends who are here to see this bill Enacted. If they would please rise and accept the greetings of the Maine Senate.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/3/12) Assigned matter:

Bill "An Act To Restore Departmental Management over Costs of State-paid Child Care"

S.P. 671 L.D. 1894

Tabled - April 3, 2012, by Senator **ALFOND** of Cumberland

Pending - **READING OF COMMITTEE AMENDMENT "A" (S-515)**

(In Senate, April 3, 2012, the Majority **OUGHT TO PASS AS AMENDED** Report, **READ** and **ACCEPTED. READ ONCE.**)

Committee Amendment "A" (S-515) **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 Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I am in opposition to the pending motion. I can't help but think that it seems like almost everyday when we come in here we seem to be doing something like this and it's all about taking away some right for people to get together and negotiate. I think that in this case here it is, I think, appropriate because all these businesses, and I'll make sure and say that they are businesses, are small, for the most part very small, and they are going up against the State for issues that they are dealing with in childcare. When they get the subsidy from the State there are certain things that come along with that. Provisions and ways that they are supposed to run their childcare. All these things have to be talked about in an open environment. Because they are businesses, you can't have businesses sit down together and talk about rates in an open setting like that. A number of years ago these people came and wanted to have the ability to talk to the State as a group. The Legislature allowed that to happen. I know that there are people that don't like any ability to collectively bargain. We've seen that in a number of cases and we'll see that with some more. I think that even the testimony that came in from the State, from the people that are advocating for this for the State, says there has been no benefit, I'll read it word for word. "Over the past two years of formed relationship there has been no substantial benefit realized by the family childcare providers over and above what has been allowable through the Child Care Subsidy Program." Basically, there has been no increase in rates. These people aren't even arguing about rates. They are arguing about other factors that are important to them as a group to be able to work with the State for. They are all smaller people that probably don't have the ability to leave their job, come to Augusta, and have these meetings. They have someone there that talks in their favor with the State. I don't think that is at all out of line. We've heard in other testimony from Dan Billings that the State will not negotiate one-on-one with each one of these people. It actually helps the State to be able to have one person to go to and talk about these issues. I'm sure we're going to hear how this is totally unheard of, that businesses aren't allowed to do this. That's not true at all either. The federal anti-trust laws allow businesses to get together and negotiate, collectively, in situations of extreme market pressure and monopolies. This is certainly a legal thing.

If it hadn't been legal I'm sure it would have been challenged, knowing how everyone loves collective bargaining in this state. I said it during the hearing. I don't know what the harm is. There is no increased cost borne to the State by allowing this to happen. These people get representation to talk to the State about issues that are important to them and to the children that they are taking care of. I just don't understand what the harm of that is. Last session the Governor tried to do this in the budget. It was taken out for whatever reason. Because it was taken out, we received this bill this session to get it a different way. If somebody could point to a reason that this is not good for the State, I mean maybe I would think differently. It just seems to be another one of these ideological arguments that we shouldn't allow collective bargaining. I'm just opposed to that. I'm opposed to taking this away from something that seems to be working well for at least a segment of the population. Why we need to do that, why this was such a huge issue to take away from the childcare workers, I'm perplexed at this point.

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

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, let me make it perfectly clear. I am not opposed to collective bargaining. I am not opposed union representation for whom it is appropriate. I think we have a very unusual case here, a case that is inexplicable to me, frankly, and was inexplicable when it was passed by the Legislature two terms ago, when I served in the other Body. Let me make one other thing perfectly clear. The truth is that we have a childcare problem here in Maine. That is to say there are not enough childcare providers. For many of us in many parts of the state, finding adequate childcare is a distinct problem. Having had two children go through childcare as they were growing up, I know what a challenge that can be, finding good adequate childcare. I think it's important that we do all that we can to ensure that adequacy statewide. However, I don't see this bill doing anything of the sort. What this bill does is sets up private businesses, those licensed childcare providers in the state; about 1,375 of them give or take a few. The numbers are about the same, for those that are interested, over the last two or three years, it hasn't changed significantly. Those licensed childcare providers are, whether they choose to be or not, members of the Maine State Employee's Association. They are not employees. They are private businesses. The law that we are trying to undo here, to unravel, forces them to be members of that union. As it happens, it actually has the power to force them to pay either union dues or fair share. That hasn't been enforced, but that power exists in the law as it exists. To me, that is striking. I believe that was the word that the good Senator from Cumberland, Senator Bartlett, had used about an earlier bill. I would say that this is very striking to me. So far, at their peak, the union had approximately 200 dues paying members from the childcare community, or approximately one-seventh of the potential membership that is actually required to pay dues. Just to be clear, the rates that we reimburse childcare providers on behalf of the Department of Health and Human Services are set through the Appropriations process. They are not set through collective bargaining. They are set through the Appropriations process. Businesses that seek to have a common voice form a whole host of associations and trade groups and organizations. We see representatives of many of those around the room here, represented by lobbyists or other

individuals so their collective voice can be heard. We don't put the State imprimatur on those. It is the choice of those businesses. I would argue that this corrects a problem that has existed for the four years, give or take, that the law has been in existence. Thank you.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, there were some things said that I agree with from the good Senator, the previous Senator, and some things that I'm going to choose to not agree with. The first is that we do have a childcare crisis here in the state of Maine because we all, as a state, benefit if we have adequate and great childcare options for our youngest children in the state. There is nothing more that our state could do, in my opinion, than invest in these 0 to 5 year olds in order to get them prepared for kindergarten. If we could do that as a state, set that foundation so that almost every kindergarten student is prepared for kindergarten when they get our public schools or public charters, that would, in itself, solve so many problems that we and so many agencies of state government and private businesses face. That's my dream. If we could be a little bit closer to having more students prepared for kindergarten I would feel that my eight years here were a success. The idea that there are 200 or so paying dues members of MSEA to me is not really relevant. What is more relevant is what are these 200 or so employees getting by looking at childcare here in Maine. What I have seen, and what I have heard, is that they are getting necessary training to improve childcare services by being part of MSEA. They are working with other childcare advocates and other professionals across the state by being part of MSEA. The intangibles of sharing information, sharing best practices, working together on such a critical issue I don't think should be taken lightly. They came together, they created their union, and now we're seeing some of the benefits of it. There was one thing that was said by the previous speaker about every childcare provider in Maine being forced to join MSEA. I believe that is incorrect. I think there were exemptions made when this bill was passed four years ago. I think we need to look deeper into that, because I don't think that is a correct statement. There are parts of the state that have childcare providers that are not forced to become part of the MSEA. I think once again, like the good Senator from Aroostook said, it's almost weekly that we come in here and we decide that we are going to take the rights of people to collectively bargain away from them. I'm not really sure how many jobs that has created. In fact, I don't think there have been any jobs created by removing any of the collective bargaining rights across the state of Maine. That's sad to me because what we're doing then is potentially putting ideology ahead of what could be working on the ground, in the field, and in many important industries here in the state of Maine. I really urge the Body to reject this motion, and allow childcare providers to keep growing in strength and keep sharing best practices so that we can prepare almost every child for kindergarten. 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, too, disagree with some of the

statements that have been made. There is no such thing as forcing organization. Federal law doesn't allow anyone to be forced into a union. There are fair share provisions, but nothing in this law allows MSEA to collect any fair shares and this bill hasn't and, at least in my mind, has never attempted to collect fair share from this segment. There is no forced unionization. You don't have to be a member of the union. It does allow those 1,300 people to be a member of the union if they choose to be. The other thing that was brought up was how the rate setting is in Appropriations. I think that is exactly what the issue is here. What actually happened is that these people were allowed to advocate for their rates that were not being changed in Appropriations effectively enough, that it wasn't changed. The Chief Executive thought, "There is another way for me to get this and that is to not allow those people to be in the process at all." I am pretty sure that if these people were not in the union, were out getting an association and hiring a lobbyist and the people in this room knew that State subsidies were paying those lobbying efforts, we'd have a real fit. I don't think that argument holds water either. It's something that is not unheard of for any state to allow businesses, in some instances, to get together and collectively bargain. We do it with the dairy tier program because if you are an independent business you cannot be with another independent business in the same occupation in a room talking about rates. The federal law absolutely prohibits that, but there are exemptions. Whenever there is only one person that you are dealing with, that allows that to happen. It allows businesses to collectively bargain or impede places with extreme pressure. We had this in logging a couple of years ago and we repealed it. You can, in very limited cases, negotiate as independent businesses. This is one of those exceptions because the only person they negotiate with is with the State. It's not unheard of. It's done on a number of occupations in a number of different states. I think we're the 9th state currently that does this, so we're not an outlier. Like I said, we do it in other occupations. We do it currently. We did something I think just yesterday on the dairy tier program. There was no harm in allowing this to happen. It just came down to I think someone that didn't like losing last session and found another way to come back and make sure that they'll never lose again in the fee setting.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, it's Thursday and I think this is the first day I've risen to speak on the record. Unfortunately, I was on that committee four years ago when this law, it was the Labor Committee at that time, was put in. I say unfortunately because of all the committees I have served on it was the least enjoyable for me because I found in Labor there is very little room to compromise. By nature, I am a compromiser. I need to find out what you can live with, what you can't live with, and let's create a law that is successful and it gives everybody a partial win. That was impossible on most of the things we did. Even though we came out with unanimous reports, the damage done underneath those unanimous reports was pretty difficult. First of all, even the Maine Chamber of Commerce, everybody has said that growth of children from birth to 5 is absolutely essential. Most of the brain is developed in that period of time. The truth be known, there are many parents that, for one reason or another, drug addiction, alcohol addiction, money problems, or whatever it is, are not good

parents. That's a real problem. You can't say that, well, it's just the rural areas or it's just the city areas. Both bring about certain problems for children. I do know that we have spent, we as a State, a tremendous amount of time in creating regulations for our childcare providers as to the amount of space, bathrooms, fenced in yards, type of water, and well water being checked if you are on a well system, that would overwhelm the average businessperson. For the woman who wants to take in, with her children, another 5 or 6 children, she must be licensed provider and do what we ask her to do for the sake of safety for children. I'm okay with that. We create a lot of expense and regulations that the average business, that does not deal with children, would not have to go through. We say to follow these rules, but we're not going to allow you a chance to unionize. Unionization is not all about money and benefits. It's about networking. It's about conventions. It's about being able to talk to somebody else. We know when we start any program that we learn best practices from models and other people. We know it in the education world. Why do you think that starts only at 6? We don't need to model and network with people from 0 to 5? I always love the 0 to 5. I'm not sure how that happens at 0, but we'll go along with it. When the State is creating these rules, do these business owners not have the right to be there and talk about it? In fact, I will tell you, because of an example and because of a tragic accident in Westbrook with swimming pools, many of our children could not use the pools in their backyards at childcare facilities. Even with an above the ground pool, you have to meet all these areas. We had kids going without the right or the privilege of being able to swim. Those rules were terrible because I happened to be on another committee at the time when we were working on that. It practically put people out of business. You need to be at the table when the person that's going to regulate you is there talking about the rules and regulations. I don't know many State people that take 10 or 11 children and work with them all day and stay home, but they make the rules that they are going to have to work under. Unionization is not all about money or dues. It's about being at the table for the safety of the children when the rules are made; people who are in the trenches. Think of your own businesses. I know there are many of you that own your businesses. Would you not like to have a say? You may have it with a professional group if you are big enough to be able to. You may have the right connections. Why are we taking that away the people who are trying to help the State in providing good childcare, which has been admittedly a problem? Why are putting hurdles in front of them? Why are we saying anybody else can have a voice there, but wait a second, sorry you can't have a voice because, that's right, you're taking care of the kids so we can be up here, all the lobbyists can be up here, all the businesses can be up here. You're just doing your job with what we are saying is our most important treasure, our children. We're saying they can't be at the table, they can't organize, and they can't network. We'll make the rules and tell them what to do. They are the true small business and they have the right, I believe, to be able to better themselves and their businesses and the very future of our children. Thank you.

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

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I'm not sure how repealing this law changes the childcare ability to organize or get together. As I

understand it, it prohibits requiring from being part of the Maine State Employee's union. That's my perspective. Mr. President, I've been extremely brief because I understand we have committee luncheons. Hopefully I've set a good example.

Off Record Remarks

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

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending **ADOPTION OF COMMITTEE AMENDMENT "A" (S-515)**. (Roll Call Ordered)

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

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.

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

Bill "An Act To Restore Departmental Management over Costs of State-paid Childcare"

S.P. 671 L.D. 1894

Tabled - April 5, 2012, by Senator **COURTNEY** of York

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-515)** (Roll Call Ordered)

(In Senate, April 3, 2012, the Majority **OUGHT TO PASS AS AMENDED** Report, **READ** and **ACCEPTED. READ ONCE.**)

(In Senate, April 5, 2012, Committee Amendment "A" (S-515) **READ.**)

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

Senator **BARTLETT:** Thank you Mr. President. As I look at this bill I will remind folks to remember that the daycare providers we are talking about are all small businesses scattered throughout the state of Maine. It is my understanding that a number of these folks had to wait 6 to 8 weeks or more to get the reimbursements they were owed from the State of Maine. I will remind folks, if you look at the statutes, there are many rules that apply to these daycare facilities that they are forced to deal with. I recently got a call from a daycare provider in my district who is actually dealing with a federal Clean Water Act issue. Many states have developed specific training around that. Maine has not. It's a big drain on businesses to deal with a lot of these particular rules and regulations as they pop up. We seem, today, to be repealing something called collective bargaining. I wonder if we would be in the same posture if we called this something else, perhaps a small business protection clause. While this may be dubbed collective bargaining, what we're really talking about is the ability of small businesses to come together and to respond and advocate before State agencies. They could say, "Look, you're putting in rules that affect us. What you think might be a good idea has a huge impact on my business. I want to have a say in developing those rules. When it is taking you a long time to get your reimbursements out the door, that's affecting me as a small business owner." That's what this is about. This is about allowing small businesses to make sure that they are heard and have their say at the table. I feel like there is an instinctive reaction when you call something collective bargaining. This is no different than a small chamber of commerce. These are folks who are fighting every day, trying to run a business, trying to keep up with the steady pace of state and federal regulations that are hitting them. They ought to be able to come together collectively to be advocates for themselves, for their businesses, and for the services that they are providing. I think it's a shame to turn our backs on these folks at a time when we know there is a shortage. I think the point is made by the fact that we have a shortage of

daycare providers in this state. Maybe that has something to do with the fact that it takes so long for the State to get payments out the door and to these providers. It may have something to do with the fact that our reimbursement rates aren't keeping pace with the economy. If you really care about making sure we have adequate daycare and making sure that are small businesses have a say in dealing with state government, I would urge you to reject this proposal and make sure that they continue to have a voice here before the state. 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, I served with the good Senator from Aroostook and the good Senator from York when this bill came to the Labor Committee and originally became law. My recollection is a little bit different. I don't remember this being a unanimous report. I remember this being a divided report. I didn't like the bill then and I still don't like it because what this bill does is if you own a daycare facility in the state of Maine and you want to do business with the State, you must join the union. If you're going to protect my business, I own a small business, by forcing me to join a union, I'm not going to have a business because I don't want that kind of protection, thank you very much. I also remember a daycare provider from my district coming to me and telling me that I had to vote for this bill because she couldn't afford to provide health insurance for herself and for her family and if we instituted this bill, if this bill became law, she would get free health insurance. That was part of the rumors that were circulating and part of the arm twisting that went on when we debated this bill in committee. Yes, there is a shortage of daycare facilities in Maine, but there is also a problem for people who need daycare for their families, for their children, to afford good daycare. How in the world adding union dues onto the price that these poor families have to pay to get their children taken care of, I don't understand how that helps. Thank you.

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

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, I want to correct a statement that I made earlier because the good Senator from Cumberland, Senator Alford, said there were exceptions. I actually got the statute and I want to just read this to be certain that everyone is clear. Exception for certain providers; any family childcare provider who is a member as of May 1, 2008 of an active regional or local family childcare provider association incorporated as a non-profit corporation with the Secretary of State may elect but is not required to become a member of the collective bargaining agent or pay service fees pursuant to the collective bargaining agreement. The good Senator was correct. I just wanted to clear the record up. Two other quick points. One is that the Department of Health and Human Services sponsors a childcare provider council to address the very issues that have been discussed here and raised about payment schedules and other requirements so that they have a common opportunity. The good Senator from Cumberland, Senator Bartlett, mentioned that this is much like a chamber of commerce. I know of no chamber of commerce whose membership is sanctioned in state statute. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Adoption of Committee Amendment "A" (S-515). 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 (#448)

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

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

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, Committee Amendment "A" (S-515) **ADOPTED.**

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

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (4/4/12) Assigned matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Encourage Enrollment in High School Electrical Education Programs"

H.P. 1353 L.D. 1833

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-836)** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-837)** (6 members)

Tabled - April 4, 2012, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **RECTOR** of Knox to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837)** Report, in concurrence

(In House, April 4, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837) AS AMENDED BY HOUSE AMENDMENT "A" (H-871)** thereto.)

(In Senate, April 4, 2012, 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 Arrostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I don't have anything really great prepared, but I am probably going to stay on that same theme. It seems like we're doing everything we can to make sure that we get the cheapest, bottom of the barrel, workforce that we can here in the state now. What this bill does is on one hand it takes away the fees for high school students to get licensing, which is good. I don't think that's a bad thing at all. What it does, which I can't support, is it raises the ratio of electrician helpers, which is currently 1 to 1, to 2 to 1 that have to have a licensed electrician working with them all the time. I think the argument is that we're going to have this great influx of work coming in years out and we're just not going to have people to fill those positions. Currently we have all kinds of people that are unemployed, or underemployed, that don't have this work. Now we're going to make it so that people can get a electrician's helper license and come and work a lot easier, thereby possibly putting people that have had the training, have gone through all the schooling, and don't have a job in the field that they've done that for. The major theme in the Labor Committee, that Chairman Prescott talks about, is how Maine should not be an outlier. It's a continuing theme. Maine is an outlier. Maine's an outlier. If we want to go down this road in making two people to every one, we'll be the only state in the nation that does that. Outlier, I don't get hung up on that as much. It seems like all the other states realize that if you are dealing with electricity, and you have someone that doesn't have a large amount of training, it's probably a good idea to have someone who knows what they are talking about looking over their shoulder all the time. When you bring a second person into that equation, there are many times, I'm sure, that there are certain jobs that you could look over both their shoulders. There are going to be, invariably, times that you're not going to be able to watch both these people. This just seems to be a way to lower the bar, get cheaper people in to do these jobs, where there are already qualified workforce waiting for these types of jobs. It would be great to have everyone in the electrician field working and then have this problem that we don't have enough, but we just don't have that right now. Why we want to open up this door to allow cheaper labor to come in and depress the wages of people that have qualified for this, gone to school, done all the requirements, done everything they're asked, and we're going to let somebody come in with minimal training and take their positions. It's very poor to me. Not a good idea at all. There is no one. I could go down through here and name people's occupations off. No one would welcome having to have to go through all of this type of training to get to be a professional and then have somebody come in and replace them with very minimal training. I also think that this is a serious thing in the fact that you are dealing with electricity. It's serious for the people that are going to be doing it. You don't have that experienced guide that is able to give you continual help, experience, knowledge, and tell you what you are and aren't doing before you make a serious

workers, it's the wrong way to go. I look at how we want to actually try to value our workforce, value our workers. We take away their health insurance. We take away their pensions. If we make them work for less. What is this adding to the American economy? What is this doing from the standpoint of benefiting workers, electricians? You may wonder how I'm trying to tie this in, but this is just another one of those laws that is, in my estimation, kind of negative from the standpoint of the Maine worker. I'm dead against increasing the level of having training at not just one, but going to two, because the electrical field is highly skilled, highly trained. It takes thousands of hours to get to where you have full value to any company. I've worked in construction. I've worked in the paper industry. You never see two helpers. It just doesn't make any sense to me. It's not the right way to go. Thank you, Mr. President.

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

Senator **JOHNSON:** Thank you Mr. President. I support that general concept. We're doing a lot in undermining people's earning potential in this state. I see this as another example of that. It really bothers me given that a big part of our challenge in this state is people aren't earning enough to get by. We rate low in terms of what has happened with wages in the last year. We rate low overall in terms of what the average income is in the state. We actually went to the trouble earlier in this session of stopping measuring what a living wage is. You have to wonder if we don't care what it takes for a family to get by these days and we work hard to undermine the opportunity for people to have jobs and making a decent wage. Do we care about the people in this state? I think if we do care about the people in this state we will vote this down.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Rector to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (H-837) 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 (#449)

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

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

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **RECTOR** of Knox to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-837)** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "B" (H-837) **READ**.

House Amendment "A" (H-871) to Committee Amendment "B" (H-837) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "B" (H-837) as Amended by House Amendment "A" (H-871) thereto, **ADOPTED**, in concurrence.

Senator **JACKSON** of Aroostook **OBJECTED** to **SUSPENSION OF THE RULES** for the purpose of giving this Bill its **SECOND READING** at this time.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

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.

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:

Mandate

An Act To Prepare Maine People for the Future Economy
S.P. 439 L.D. 1422
(C "A" S-477)

Tabled - April 5, 2012, by Senator **LANGLEY** of Hancock

Pending - **ENACTMENT**, in **NON-CONCURRENCE**

(In Senate, March 27, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-477).**)

(In House, April 4, 2012, **FAILED ENACTMENT.**)

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

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion to Enact this bill. I speak today as a former teacher who has experienced Mandates from the State and as the Senator of a district that has some experience with this proposed standards based education system mandate. First of all, this is a Mandate to all of our schools, no matter how large or small. Why would we want to do this; increase the cost for faculty training and equipment when many of our school districts are already struggling because of the level of funding we are currently providing from the State? Secondly, the standards based education system was implemented in R.S.U. 2 of my district three years ago. R.S.U. 2 was presented as an example of how to implement the system and how well it is working during hearings on the bill and in presentations around the state. Let me try to summarize what really has happened and how much this has divided our communities. I talk with former school board members who outline how their concerns and frustrations were not addressed by the administration. I talk with former members of the Implementation Committee about how their concerns were overlooked, promises made and not kept. I get e-mails and phone calls from parents about how this project is negatively affecting their students. There have been numerous letters to the editor criticizing this system. Some families are considering moving from the district, to one that does not use this model. This is an option you will take away from them if you pass this Mandate. There will be no community to go to. Some are making the choice to enroll their students in private schools to avoid this model. Some are making the decision to home school. These are not people who just don't get it or who simply resist any change that might be proposed. Some you see on a daily basis as successful lobbyist in this building. Many are extremely successful in their own careers, including teachers. All are parents who understand the value of an education, who only want the best education for their children and who understand their child only gets to go through high school one time. Some of them are three years into what can only be described as a continuously changing pilot project. The superintendent responsible for implementing this system at R.S.U. 2, over the objections of many three years ago, is now the Deputy Commissioner of Instruction at the Department of Education, telling all of you, through this bill, that all your districts must implement a standards based education model. The new superintendent of R.S.U. 2 is actively promoting the success of this model in the school he came from in California. We hear of the success this model has had in some rural areas of Alaska and other areas, but no other state has embraced this model for all their school systems. We are told other districts in Maine are interested in this model, are implementing it, or are ready to move forward. Great. This Mandate is not necessary for any district to implement a new standards based system this year or next year or any time any more than it was necessary for R.S.U. 2 to do so three years ago. In fact, that's the way it should work. Let's let local districts voluntarily implement this if they want. Let's get more information from them on who is prepared to provide the training, where it will be provided, how long it takes and at what cost, what additional technology is required, and what eventually are the results and benefits. Once this is known, if it is truly successful, more districts will voluntarily embrace it or, if we decide to mandate it at that

time, we will at least know what we are doing, what it costs, and possibly not repeat mistakes that were made. This bill directs the department to coordinate the development of tools needed to enable school districts to implement a standards based system of education. It also directs the department to convene a working group to develop the standards, assessments, and assessment criteria for determining proficiency in the guiding principles required for secondary school graduation. It also directs the department to develop a technical plan that defines the resources and initiatives the department will provide to enable school units to transition to a standards based system. The department is tasked to report back to the 126th Legislature on this plan. Again, whatever rules come out of that process, R.S.U. will again undergo another round of changes and disruption.

Let's see how this timeline fits in with the bill's mandate. The bill says the class of 2017 must be the first class statewide to graduate with a standards based diploma. This means when this class enters high school in August 2013, next year, all teachers must be fully trained and proficient in this system. Yet the tools, standards, assessments, and assessment criteria won't be available for review until, as the bill says, not later than July 1st of next year. This would be less than two months before they are to be implemented for the class of 2017. I would submit that it is likely no district will be able to meet this mandated timeline.

Let's do something different this time. Instead of passing this Mandate and waiting until next year to see if we like the proposed rules and plans, let's wait until we have the plans and see if that is what we want to mandate to all the schools in Maine. We're not ready for this. By joining me in opposition to the pending motion you may be able to avoid some of the experiences I've had over the past three years. Thank you, Mr. President.

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, I rise to support this piece of legislation and I believe that the testimony you just heard probably would have been the same testimony heard in 1997, when this was enacted into law with the Maine Learning Results, that there would be a standards based diploma. I think, as you have heard in our committees time and time again, the issue is about that we don't have enough time to do this. When we had this in front of our committee I asked, "Would you say 17 years would be enough time to enact this, if we were to enact this today?" Well, the can has been kicked down the road and down the road and down the road and down the road. There will never be enough time based on the testimony that we heard today. Just a little history, perspective, I think to put it in. Last June we passed legislation that said, "Resolve, the Department of Education shall submit a report to the Joint Standing Committee on Education and Cultural Affairs by December 1, 2011 consisting of; draft legislation to require that in order to graduate from high school after January 1, 2016," which we've moved to 2017, "a student must demonstrate proficiency in meeting State standards in all content areas in the Learning Results, demonstrate proficiency in five guiding principles, and meet other locally developed requirements to graduate from high school. The legislation must also include changes necessary to conform current state law to the needs of schools engaged in standards based education." The legislation goes on to say; "The Joint Standing Committee on Education and Cultural Affairs is authorized to report out a bill in the Regular

Session of the 125th with recommendations included in this report." This was L.D. 949, which passed last June with unanimous votes and was signed into law.

In preparation for coming into the second half of the 125th the Education Committee went on a retreat in November, sponsored by Nellie Mae, Educate Maine, which includes Cianbro, Apple Corporation, UNUM, and the Maine State Chamber. The New England Secondary Consortium was represented by former Commissioner of Education Duke Albanese. On this retreat we visited two schools who were involved in the transition to standards based education. We actually went into the schools and sat with children, side-by-side with them in the elementary school, and asked them about their education. They were actively involved, engaged, and they could tell you where they were and where they were expected to be before they could move on. It was impressive. We spoke with teachers who were honest about the transition. It does take work, but they were very supportive of the results. That night on our retreat, we heard from the last two Teachers of the Year who have a standards based in their classrooms. Their presentations included videos of their classroom in action and they were very impressive. You would all want your children to be in these classrooms. Many of the past Teachers of the Year are on record as supporting this legislation. We heard from many business leaders who strongly support this effort because, men and women of the Senate, what does a high school diploma really mean today and what does an "A" mean on a transcript. An admissions officer from one of our own institutes of higher ed said an "A" tells us almost nothing. An "A" in one school, you see, is not the same as an "A" in another school. You see, they have a list. Colleges and universities know and they make their decisions accordingly when accepting students. Can you imagine what it must feel like to be an "A" student all the way through high school, thinking you are prepared for college, only to realize that you're vastly unprepared? I read an editorial in a local newspaper of a student who said just that.

Mr. President, we passed legislation unanimously last session. We did our homework. Actually went out into the field, did our own research, came to the committee and reported out L.D. 1422. L.D. 1422 just sets the endgame. It's the standards based diploma and how districts get there that is truly a local decision. The good Senator from Kennebec did tell you the excerpts from the bill, so that's not something that I will read to you again. I would like to comment that I received my standards based diploma in 1977 when I graduated from Regional Vocational School in Culinary Arts. On the front was embossed State of Vermont seal and on the back was the list of the things that I could actually do. That helped me get my first three jobs, being able to demonstrate that someone had checked off what I was able to do. A high school diploma today doesn't do that, but it needs to be based on what the students can actually do. All L.D. 1422 does is tie the diploma to those standards that are currently in law. It's not a one-size-fits-all. Every district will be able to do it in their own way. It's not radical. It's been around a long time. Military standards based. I talked to a representative who's a dental hygienist. You go through dental hygienist school, it's checked off if you meet the standards. Our data, it was said there was no data on this. The data that we do have, unfortunately, is 50% of our students are entering the community colleges needing remediation and 25% of our students are entering the university needing remediation. Guess what? They all have a high school diploma. What does a high school diploma mean? More data, 40% of graduating seniors can't pass the GED

exam. We met with the GED folks this week. Again I ask; what does a high school diploma mean today? I think it's the cruelest of hoaxes to hand a high school diploma to a student who can't read, write, or do math at a level that allows him to succeed in life. It is years later that they find out the hoax was put on them. For our top students, however, extras are added to the transcript because people realize the diploma doesn't mean what it used to. Weighted grades for honors and AP classes, showing membership in honor societies, and other mechanisms are used to add value to that diploma. For me, it's about those middle-of-the-road kids that I came here to fight for, that aren't in the top 10% of the class. That diploma should mean something for them as well. If you were to go to the school that I taught at, Hancock County Technical Center, and come out of one of those programs, you would have a standards based document listing all the standards that were met. This is why our employers like to come to the CTCs. All of our students deserve the students deserve the same benefit. Thank you very much.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not a teacher and I've never played one TV, so what I know about this bill comes from superintendents and teachers who contacted me who are opposed to this legislation. They think there are some good points in this bill. There are some good things here, but there is not a good thing in this bill that they can't do without. They see this as handcuffing local districts. It's a top down, Augusta knows best mandate that they would much rather live without. They can do a better job without this legislation. I think we need to send good teachers to the classroom. We need untie their hands and let them teach.

On motion by Senator **LANGLEY** of Hancock, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-477).**

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

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-477).

On further motion by same Senator, Senate Amendment "C" (S-529) to Committee Amendment "A" (S-477) **READ.**

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

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, this amendment removes the Mandate Preamble and requires the Department of Education, if funds are available, to make annual grants to School Administrative Units to fund the cost of transition to proficiency based graduation standards for the awarding of high school diplomas. The grants are equal to

1/10 of 1% of a School Administrative Unit's total cost of education. The amendment also extends the date for implementation of the new system by one year for each year in which the grants are not made for which levels of General Purpose Aid for local schools falls below year 2012 and 2013 levels. In essence, it funds the mandate and turns it from an unfunded mandate to a funded mandate. If the funds aren't there the implementation date gets pushed out another year. Thank you.

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

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion. The previous speaker is correct. This does not remove the mandate, so it is still there for our communities. It does promise some funding for training, even though we don't know truly how much it will cost to implement this across the state. We don't know what other account will be impacted or suffer to do it. There is literally no guarantee that it will not come from future GPA funds. This amendment also lowers the standard by which we may pass this bill. Rather than slow this bill down, rather than make changes to address concerns of other legislators, rather than brining this bill back next year when the department returns with the standards, assessments and assessment criteria and the plan to implement them, the advocates would prefer to lower the standard to implement it. If anything, for something as significant as this, we should be raising the standard for passing this bill. I urge you to oppose the pending motion.

On motion by Senator **McCORMICK** of Kennebec, 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 Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I have a question for the Chair? We are currently debating the amendment only, correct?

THE PRESIDENT PRO TEM: The Chair would answer in the affirmative.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today in opposition to this amendment and at a later time I'll speak more about the underlying bill. This amendment, to me, is a way to gain support for a program that, frankly, I support the policy behind it. However, I do not support the implementation methods upon which we are trying to get this out to all of our school districts across the state. This amendment is a tool to try to attract more votes, in my opinion, with in essence a promise if funds are available. If we are truly behind this bill, we should make sure the funds are available upfront. We shouldn't just be implementing policy based on an amendment that would allow it to go forward if funds are available. I'd ask you to think long and hard about adopting this amendment so we can get back to the underlying bill. Thank you very much, Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from Hancock, Senator Langley to Adopt Senate Amendment "C" (S-529) to Committee Amendment "A" (S-477). 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 (#450)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, GERZOFKY, HASTINGS, HILL, HOBBS, JACKSON, JOHNSON, KATZ, LANGLEY, MARTIN, MASON, PATRICK, RAYE, SAVIELLO, SCHNEIDER, SULLIVAN, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: COLLINS, FARNHAM, GOODALL, MCCORMICK, PLOWMAN, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS

25 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **LANGLEY** of Hancock to **ADOPT** Senate Amendment "C" (S-529) to Committee Amendment "A" (S-477), **PREVAILED**.

Committee Amendment "A" (S-477) as Amended by Senate Amendment "C" (S-529) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I was going to rise earlier. The amendment came forth. Now the entire bill is in front of us. I, too, represent part of R.S.U. 2. I was part of the implementation committee on behalf of the town of Richmond and I worked long and hard on bringing the R.S.U. 2 together. As I said in my earlier remarks, at this point in time I think I do support standards based education. I think it has a motivating factor for many students. I think some of the challenges that some of the school districts have faced we can work with overtime and those can be corrected. However, my concern is that we're moving too fast: not in regards to how we've gotten the bill in this Chamber and not in regards to how people, as the good Senator from Hancock stated, have worked long and hard over the last 10 or 15 years on this, dating back even to the 1970's. The issue is that we're going to be enacting a law here, today or in the next few legislative days, that's going to go into effect most likely in 90 days upon adjournment. Now we're going to be asking our school districts to be implementing all of these changes over the course of one year, with potential changes coming back to the Legislature in the Winter of 2014. To me, basically what is happening is that we're going to be rushing the school boards to implement this. We should be waiting one more year and giving adequate time to the public boards, school boards, to work in order to implement this new educational system across all of our school administrative units in Maine. I

believe that some districts this is working well in. The good Senator from Kennebec articulated the challenges R.S.U. 2 has. I have heard many complaints about standards based education from R.S.U. 2 and I have heard some positive stories. I believe strongly that we need more time in order to figure this out. We shouldn't be rushing the public bodies of the school boards, people that have full time jobs and that are working in the evenings to implement that, because what will happen is the parents are going to lose confidence in the system. The parents are going to have so many questions and concerns that all these wrinkles are not going to be ironed out in time. I believe in standards based education, but to rush this is similar to how we rushed the implementation of R.S.U.s in this state. As we all know, there have been many unintended consequences there. I'd encourage you to vote against this and I just believe that we either should amend the bill to delay the implementation or potentially wait until a later date to enact it. Thank you, Mr. President.

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, it appears every time I stand up to speak on an educational matter I notice that the Commissioner of Education is sitting very near me. I think that, unfortunately, he's going to be very unhappy with me. I don't support this bill at this point in time. I support concepts of it and parts of the concept are good. As a teacher, I really got tired of listening to people say, "Augusta says we have to do it." We have to do Native American education. We have to do sex education. What we have to do goes on and on and on. It's all coming from Augusta. As I understand the amendment we just put on, it says roughly we're spending \$314 million right now, \$314 million on education. I have been corrected by my seatmate. My point is if we up that next year, in the 126th, they technically don't have to do it to anything but to implement this new program. It doesn't make any difference where else it could have gone, it is new money. New money. You are talking new money going to a program that the schools aren't ready to do. You know this is a very mobile society. There are an awful lot of students who will start school in one system and by the time they graduate high school they may have been to five different systems. Those systems will be at different places, or their standards will be different. I have been reading how it doesn't change curriculums and teaching methods and all of that. It does because it will be just like the M.E.A. test where everything will be published; how many students go. That was never going to be politicalized. Well you know that your system, your local communities, will look for those M.E.A. scores. I also worry about the students who do not make the competency piece. You say that I've never been a great supporter of social promotion, but it works certainly because of the finances. That's all that does. Social promotion, we have encouraged because what do you do with the students who don't make it. What do you do with the extra, let's say, 50 students out of your high school who do not earn a diploma? Do we put them on the streets without a diploma? Do we send them back to school and fill the classrooms with more students and more crowded places? These are plans that haven't been fully vetted. There are pieces that will work. I'll use my son as an example. He wouldn't be very happy, but when he went from Biddeford High School into the Wesleyan University, he didn't have to take his English there.

His core, he already got the credit for it. My son was a good student. I'd like to think I was a good parent. If I had to, I'd make sure he sat there and did what he needed to do until it was done. Fortunately, we didn't have many complaints about that, because he wanted to learn. There were kids that, yes, went to Wesleyan. Some of them private schooled. In fact, better than half from private schools at Wesleyan at the time he went to school. They offered remedial English classes. You had some that were able to skip and you had remedial. Times haven't changed. We're going to have a problem. Your local communities are going to say, "What do we do with these students that didn't make it this time?" Do you know the answer? I don't know the answer. I haven't heard the answer. We need time to implement this. We need time work with people in the trenches, with superintendents, perhaps with the State School Board. It's too soon, too fast, and not ready for prime time. Don't throw it out. Keep the ideas. Bring it back and let's really put pieces together that will make it work and make it successful. R.S.U.s, consolidation, was a disaster because the idea was good. Was it good? Absolutely not, because there wasn't enough information. We didn't have enough plans. We tried to move it in too quickly and over sell the program. I fear that is what we're doing here. We need to go back, take a look at it, and, if the Commissioner is still speaking to me by the time I sit down, I would love to work with him on my own and to come up with a program that will work. Let's make sure we understand what happens and the "what ifs" and all of that. Thank you very much.

Off Record Remarks

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

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I stand in support of this legislation and, although I'm not a public school teacher, I do come from a town that is very, very diverse. Often we have students who are from low income families or families that have other difficulties, but especially children who lack skills in the English language proficiency. It takes time for them to get caught up. I think that this is a tool and a vehicle that will give them extra attention and extra tutoring and have somebody, when students graduate, that will be proficient. I do often hear from employers and the community college and the university that they are getting students graduating out of high school that aren't proficient in, especially, the English language and mathematics and science. We have to start somewhere and I think that, as I understand this legislation, school districts are allowed to implement it at their own speed and as they can. Thank you, Mr. President.

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

Senator **ALFOND**: Thank you Mr. President. Ladies and gentlemen of the Senate, I want to go back to the good Senator from Hancock. Most of his speech was about students because for the past hour I don't think students have been mentioned once. That's really too bad because if we go back to L.D. 1422, or even the predecessor L.D. 949, these bills were about students and they are still all about students. What we've heard for about an hour now are complaints about one district's implementation, management, and parents not being listened to. I am very sorry for that. We can learn a lot from that. The bottom line is to let's look at what L.D. 1422 wants to do. When you go into your schools, and when I go into schools not just in Portland but across the state, students wants to be in systems that are in the 21st Century. They no longer want to be in schools that we went to. They want to learn at their own pace. They want to be challenged. With the seat time Carnegie Unit that we have in place right now, that doesn't exist. Why are we so afraid to give our local school boards, our local teachers, and our parents the opportunity to innovate? I just don't understand it.

We can learn from our mistakes, but we've got to move forward. Students, teachers, colleges, and businesses; they are all yearning for us to do something different. Our schools do a good job, but in order for Maine to stay competitive globally, in New England, and in this country we have to do a better job. L.D. 1422 sets the stage for that to happen. How does it set the stage? Well imagine having students be accountable every step of the way. Wow, that sounds like a really risky jump. The idea that when you're in every grade you need to be accountable for what you know. It's not just what you know, but it's your parents knowing that these are the standards that you should know. It's the accountability of the parents being involved with that student's learning. Sounds pretty exciting to me. How about involving parents? Well, parents need to be involved. We know that. In any successful transformation, whenever we transform any part of education, parents need to be involved. Why? Because we all went to school. We all think we're experts at this. Actually there are very few that are experts at it and those are our teachers and our administrators, but we all feel we know what's best for our students because we all went to school. We all think we know what should be done. Me included. The reality is that our schools need to change and L.D. 1422 creates a stage for that to happen.

For students that don't make it, I will pose the question; what happens to them now? What happens to those students that aren't making it now? Well, I can give you a little bit of insight. There are around 2,000 to 3,000 students every year that are at risk of dropping out. They end up in our communities with not only dropping out, but probably dropping out without knowing really very much. The reason they are dropping out is they don't feel like they can keep up with their peers because they've been pushed along the entire time from one grade to the next without knowing the standards, without knowing what they need to know. In the standards based system, when I go into different school districts, if you don't know part of that particular subject area, that standard, you do it again. Then if you still don't understand that multiplication issue, you do it again. How exciting is that? Instead of being rushed along like you're on some sort of Nascar event, you actually take your time and learn what you need to do so you can be successful once you move to that next grade.

Don't take it from me. You can discount what I'm saying. Let's look at some of the schools that are doing this. Deer Isle High School - in 2010 they were identified as one of the 10

poorest performing high schools in the state. Not necessarily a label that any school would strive to be. What did they do? They looked hard in the mirror and they said, "We're going to make a big change." Did they say, "You know what? Let's take everything and reduce it so everyone can be successful." No, what they did is they set clear and higher expectations for every student. They moved to a standards based system so they could identify where every student was at. They started creating a highly collaborative environment of teachers so that they could make sure that every student gets the things that they need. Did they have any extra, huge, amounts of money? Yes, they had a little bit of money, but the bottom line is now Deer Isle High School is moving in a direction no one thought their community could do. Let's talk about Casco Bay High School in Portland. The principal came from Poland High School, where they are doing the same thing. He has a track record of including parents, including teachers, and including everyone involved in order to make this transformation. Casco High School in Portland graduates 100% of their students and 99% of them go off to higher ed. That's a pretty impressive track record. When you talk to these students it is down right impressive. I honestly wish that I had a Casco Bay High School experience. They are using experiential learning. They are standards based. It's exciting. You see it in the student's eyes. They are excited about learning. They are excited about teaching each other and excited about being around their teachers. You know what? Teachers are excited about being there too, because now you have students that every time they know they haven't met the standard they are excited about not only meeting it but potentially exceeding it.

L.D. 1422 is not some huge jump. As the good Senator from Hancock said, Maine Learning Results have been in play since 1997. Some of those early pioneers, Peter Geiger, Wes Bonney, and others, when we saw them relatively recently their hair is a little grayer, but their smile and enthusiasm for finally getting Maine Learning Results implemented and connecting with the standards gave them enthusiasm, I think, for both the Senator from Hancock and myself to keep pushing hard at this. Currently, right now, there are studies going on of six different districts that are moving to standards based. Why? Because we need to learn to ensure that every district around the state, when they start moving with the passage of this bill, have the best practices and also make sure they don't make the same mistakes other schools did. I urge this Body to pass this. We owe it to our students. We owe it to our parents. We owe it to our teachers. We owe it to our businesses in the state of Maine because we need to do better. Thank you, Mr. President.

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

Senator **McCORMICK**: Thank you Mr. President. Men and women of the Senate, I rise in opposition to the pending motion and I really just have a couple of comments concerning what I've heard in the debate. First of all, the fact that we voted unanimously last year to ask the department to come back with a bill this year is irrelevant to the fact that we don't like it. The second thing I've heard over only a couple of times in the debate today is this idea that somehow this allows local control. I've heard it numerous times in the hallways around the building in the past week and it's noted on the little flyer in support of L.D. 1422 that we received. For me, if you're going to tell my school district they must implement a standards based system of education, you

are going to tell my school district when they will implement it, and you are going to tell my school district that you will develop the standards, assessment, and assessment criteria for determining proficiency I guess I've lost sight of just what was local control about that. Thank you, Mr. President.

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

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today to just correct the record. My friend and colleague from Cumberland County, Senator Alford, was a little loose with his facts on what he was hearing us articulate for our concerns in regards to standards based education. One, I haven't heard complaints about standards based education. I've heard real life concerns, examples on how even over achievers in school, prior to standards based education, were losing their motivation to move forward once they were introduced to the new system. That could be interpreted as a complaint, but to me it's a great concern, especially if you're that child's parent. In addition, the good Senator from Cumberland seems to try to push us into a corner and say that this is, in fact, that we're not for students. I think one of the underlying rationales about my earlier argument was that if you implement this too fast it won't be implemented properly, thus you won't get proper buy-in and thus you will have many unintended consequences. R.S.U. 2 first voted to have this go district wide, Richmond High School, Monmouth High School, Hall-Dale High School, and Dresden Elementary, in March 2010. They then voted in terms of setting forth the process to plan and ad hoc committee on standards based education. They then voted in January 2011 to accept the plan. Hall-Dale already had standards based education to a certain extent. I'm not sure exactly. It wasn't the whole school. I believe some of the grades had it. It was phasing in. Then in Richmond and Monmouth the high schools went to standards based education in September. Eighteen months they had to implement this. Eighteen months. There are still problems today. I believe in standards based education, but there are many wrinkles that need to be ironed out. Are our school boards ready to do this quickly? I don't believe so. The good Senator from Cumberland spoke about numerous examples that are succeeding. They are succeeding because they chose to do it on their own timeframes and it is working well. I applaud them and I think more schools should do it. Should we mandate it so quickly? I think not. If we had more time, that's a different conversation. Lastly, one issue that really hasn't been discussed to a great length is that we are all concerned about educational dollars. We are all concerned about the burden that we put onto property taxes if we continue to get short shrift to our school districts in terms of the dollars that we have promised for which we have not succeeded at meeting the 55%. Inevitably, these dollars that are going to fund the implementation of this in a very short timeframe is coming out of the educational assistance. Is that something we want to do? If this program is great, one in which I believe in the underlying philosophy, let's fund it. Let's not say that we'll keep giving you waivers until we have the dollars. Let's do this right, Mr. President. Thank you very much.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, I need you all to prepare for this because this doesn't

happen very often. I agree with the Senator from Cumberland, Senator Alford. While that is a funny joke, I think that it's important to note that there are three Senators that voted for this report and all three of us come from very different views on how we think education should work. We came together on this issue. I think that that speaks volumes of the work that was done by the department, the work that was done by the committee, and I think that it speaks volumes that this is the right way to go for our state. One thing that I just want to add because I'm not sure that I heard it. There was a lot of speaking, but one thing that I just feel that this bill does is this bill is all about accountability. It's about accountability for teachers, students, and administrators, making sure kids don't go out on the streets and are unprepared for life. They had a standard they had to meet and need to be prepared for. It holds the teachers accountable for making sure they get there. Holds administrators responsible for making sure their system is prepared. We're no longer willing to put our kids through school on a standard that is completely arbitrary. What does an "A" mean? It means something different to everybody in this room and from every school district in the state. Mr. President, I don't want to belabor the point, but I just think that it's very important to note that three Senators in this Body came together from very different views on how education should work in this state and we all feel that this is the way to go. I would encourage the Body to vote for the bill. Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I know that if I were still teaching school that I'd still have a half hour before I could go home at 5 o'clock. I'd still have tests to correct and things to do for tomorrow's lesson and perhaps doing something that used to be called the Olympics of the mind. I agree with the other two teachers that talked, Senator Sullivan and Senator McCormick. I need to be careful. Teachers never seem to be involved the way they should be. In some ways it's disrespectful to those folks, the 15,000 to 20,000 folks, that labor in these schools, underappreciated many times. They come from other walks of life where it's, in some ways, much easier. Some of you know that I have a law degree and practiced law for a while. I could spend two or three weeks getting ready for a trial. No one's looking over your shoulder. I might want to do some title work. I'd go down to the Registry of Deeds in Alfred for a number of days and charge people lots of money. I got into teacher in the end because that, I thought, was the cleanest job that I could get into. You had young folks that were kind of innocent and naïve. These days they may not be innocent and naïve, but you choose to think they are. I never met a kid that I didn't like. I didn't say I wanted them in my class, but that was another issue. In the years that I taught school almost every other year we had some other scheme coming along to say we're going to do mini courses and maxi courses, or you're going to have group learning and a whole series of things. I don't disagree that perhaps this may work, but I do disagree with the fact that you need to have a buy-in from those people that are going to do this. I'm not in favor of rushing this along. I think many times we're looking for a quick fix. Let me say this, my father used to tell me to beware of planners. When I was in law school my senior thesis was on zoning. If you saw how zoning was developed over the years and how zoning is taking things, I think there is a lesson to be learned as we do this education

piece. I'll let it go at that. I don't want to hammer it down. I think I could be doing an Olympics of the mind for the next 15 minutes and be going home. Thank you for listening.

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, it's taken me this long to come to a decision, listening to all the good debate. I spent 20 years in public education. I taught grades 5, 6, 8, 10, and 12. I was a school principal. I was a school superintendent. In those 20 years it was like a whirlwind because we had all these new programs coming at us. Most of them were mandates, before we knew the word mandate and what it meant in the legislative process. We had new math. We had to spend hours and hours after school learning the new math, which never went anywhere. We had a time when spelling didn't count. Don't worry. Don't worry if spelling is wrong. That's a new kind of trend coming through education, which is loaded with trends. We had no rank cards. You don't need rank cards any more because that makes kids feel bad. We had the open classroom. I was a principal with an open classroom. No walls. We had 400 kids with no walls and 23 teachers. That's an experience. That same school now has walls. The point is that there are a lot of these trends that came through, all well intended. When you look at this trend we're talking about now, individualization, we've been doing individualization back in 1968. We measured kids where they were, if they were in 5th grade, and we would move them on at whatever level they should be, especially in reading and math. This history that we've had has always been when a trend came through it was always kind of risky and, more than not, well intended but ended up right in the laps of the teachers in the classroom, right in the parent's laps, and either it was totally wiped out, changed, turned around and gone the other way, or people worked very, very hard, sometimes fruitlessly, to make something, or some part of it, work. One of the biggest problems, as an administrator, I look back on it now and I'm somewhat embarrassed, was that I would be just as trend minded. I'd go to some conference and come back and say, "Oh my gosh, I've got to do this now. Oh my gosh, we have to do this now." What we'd end up doing is that we would make all the teachers follow this new program and all implement it. Of course they had no input into it. It is interesting, by the way, the people who spoke against this today, the Senator from Aroostook, is a teacher, Senator Sherman, the Senator from Kennebec is a former teacher, Senator McCormick, and the Senator from York, Senator Sullivan, is a former teacher, and myself. I guess what we're saying is that this could be the best thing since sliced bread, but the way we're doing this, the quickness that we're doing this with, causes us to be concerned and we should really think carefully about the risk. Nobody in this Chamber can say there is not a risk to this because there is. The people who risk the most are the kids, the students. Those are my concerns, Mr. President. Having been there, I've rode that horse, and I think we have to be very, very careful. Again, I think the intentions are so good, but, boy, we have a history that should cause us to be very, very concerned. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, this is a very difficult issue. There is no question about it. I used to sit on the Education and Cultural Affairs Committee and I know the difficulty in this. I do want to say a couple of things about this piece of legislation. I'm very grateful that the committee looked this complex issue a over two year period and to have such diverse minds and philosophies coming together on this piece of legislation, I think, speaks volumes. To me, I know that the teachers are concerned, clearly, because it impacts them in the field. To me what's the singularly most important thing to all of us is the education of the student. What we do know, and what is factual, is that the students are not ready for higher education. When they are completing their education in K-12 education, they are not ready. From my own experience, I can share with you that I had serious issues because of dyslexia and I can assure you that I have asked questions to Senator Alfond, the Senator from Cumberland, on this very issue because it would have been difficult for me to meet proficiency in areas. It's been made clear to me that students will have the extra attention. I think it's critically important for success today to have students meet proficiency in these different areas so they can succeed in their future. We know that there are jobs available today to our students that they cannot fill because they are unprepared. We have been told that there are millions of jobs available that our students, across this country, are unable to fill in science, technology, engineering, and math. They are unprepared to meet the needs of those employers currently. We're losing ground because we're not fulfilling our obligation to students. To me, this is one potential way, a pathway, to meet the needs of those students. I wouldn't have voted for this if this had been a mandate without the funding. We got rid of that. I feel much more comfortable because this is based now on the State of Maine financially backing this. I think that that is critically important. I hope you will, and I urge you to, vote in favor of the pending motion. Thank you.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I've listened with great interest to this debate because when I came in here today I wasn't sure how I was going to vote. Frankly, I'm still not sure how I'm going to vote. I'm reminded about a story about Winston Churchill, who was complaining about his advisors that would say, "On the one hand there is this and on the other hand there is that. On one hand there is this and on the other hand there is that." He finally got frustrated and said, "I think what I need is one armed advisors." That's kind of how I feel. I do have two questions if I could ask through the Chair, Mr. President, to anyone who might answer.

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

Senator **KATZ:** Thank you Mr. President. The first one has to do with the timing. I've heard criticism this afternoon that if this passed the Department of Education has a period of time to flesh out, if you will, the standards and the expectations that students will have to meet and then there would only be a very short number of months between the time that is issued by the department and the time that school will begin. The implication was that there won't be enough time for the local boards and the

local teachers to go from point A to point B. That the timeframe is too condensed, even with the State funding. If someone could help me understand that. The second question is this; I just got an e-mail from a close friend who is a school teacher and actually lives in one of the R.S.U.s that is affected by this now and is not a fan. I want to read something she wrote. I would ask, through the Chair, if anyone may care to answer on the question of; does standards based education take away the motivation to excel? Let me read what she wrote. "I liken the school based experience to a race where one is told you must get to the finish line within two minutes. All take off running and anyone who crosses in time wins, whether they did the race in one minute and fifty-nine or two minutes or whatever. The winners find out that the others, who were slower, can try it as many times as they want and they will win as well. How soon do you think it takes the first group to figure out that they don't have to work so hard for next week's race? They don't need to do their personal best. They just need to do good enough to get to the two minute mark each time. They lose the motivation to excel." I hope someone can address that because it seems that a fair amount of the criticism that has come out, particularly of R.S.U. 2, is from parents of students who do excel and are complaining that the system, at least as it's implemented in R.S.U. 2, takes away that motivation. They see their kids not trying as hard as they might otherwise. It is certainly a result that none of us want. I'm hoping someone may be able to address that as well. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Senator from Kennebec, Senator Katz poses two questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you Mr. President. I'll give my best to try. I certainly can answer one of the two questions efficiently. The second question maybe not so efficiently. The timing of this, when it goes into effect, is for a standards based diploma to be in effect by the year 2017, five years from now, with three years worth of waivers beyond that to 2020, which allows for plenty enough time to implement something that was put into law in 1997. I believe there is time for people to work. If other issues really rise, they will have time to work on those. As for the second question about motivation, I can only tell you from my experience in having taught for nearly 30 years in a standards based classroom that motivation is something that is both intrinsic and extrinsic. I'll give you an example in cake decorating. There was a high degree of motivation to produce a saleable product. There is a tremendous motivation. How it is implemented certainly is of concern. How people do it. How do people motivate. I might use this time to talk about what I call the 70 percenters. We hear about the 1% or the 99%. To me the 70 percenters are the group of kids that often times I would get to work with. That was their goal, to achieve a 70% in every class all the way through to get to the other end. There is a high degree of unmotivated kids that we have now. I've worked a lot with what I call the castaway kids, the ones that were sort of considered the "less thens", that had never been very successful and kind of come from the other side of the tracks. The list of educations in the room taught in, I would say, the traditional education. I come from the other side of the tracks and taught in vocational education. Those were the kids that I got to work with, enjoyed working with, and that's kind of who I'm here representing today. Certainly there are ways to motivate students, both

intrinsically and extrinsically. That would be something that is part of being a good teacher.

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

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, I'll try to answer the Senator from Kennebec, Senator Katz's question on the timing. Section 9 of Committee Amendment "A" states that graduations beginning in 2017, that class will meet the standards and will graduate with the standards based diploma. Backing that up four years to where they would be entering high school would bring us to August 2013. Section 9, paragraph 1, states this working group that is going to be set up by the department will develop standards, assessment, and assessment criteria and this working group will report back for review of those criteria not later than July 1, 2013. If they use all of that time that will be just one month before, supposedly, the first class is to begin their education under this system. Obviously, we've heard testimony since then that these dates are flexible, but still if they are in there that is the thing. Thank you, Mr. President.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm going to answer the timing question very simply. If you right now are in 7th grade, by the time you graduate in 2017 you're going to need to be proficient in all the standards. With the amendment, you actually are in 6th grade. Right now if you are in 6th grade and this Body is deliberating and talking about delaying something that we're now saying our 6th graders, by the time they graduate, you would not be prepared to understand what this law means and wouldn't be able to implement what local school boards, teachers, parents, and probably many students would have huge inputs in creating in their local communities. I think it's a very good question and I thank the Senator from Kennebec because we are talking about the 6th graders right now. I come here, too, fighting for many students. In the city of Portland we have many, many diverse students. All I know is that when I go into some of the classrooms that are not doing standards based, that are just doing seat time, I see dull eyes. I see students being left behind. I see students, the next year when I go visit, somehow being in the next grade. They didn't learn what they needed to do in that 4th grade or that 5th grade. They got that 71 or 68 and they got pushed along. In essence, what standards based will do, and I agree with my fellow seatmate on Education around the accountability, is that you will no longer be able to hide deficiencies. In seat time in the Carnegie Unit and the things that we have been doing for 100 years, we hide deficiencies because of a 71. I don't know what that means. I don't think anyone in this Body could really describe what 71 means either because there are so many deficiencies in that 71 that we'll never know. In standards based all the sudden parents, teachers, and the community will have a better understanding of what their student needs to know. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is Passage to be Engrossed as Amended by Committee Amendment "A" (S-477) as Amended by Senate Amendment "C"

(S-529) thereto, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#451)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DILL, HASTINGS, HILL, HOBBS, JOHNSON, KATZ, LANGLEY, MASON, PATRICK, RAYE, ROSEN, SAVIELLO, SCHNEIDER, THIBODEAU, WHITTEMORE, WOODBURY, THE PRESIDENT PRO TEM - CHRISTOPHER W. RECTOR

NAYS: Senators: COLLINS, DIAMOND, FARNHAM, GERZOFKY, GOODALL, JACKSON, MARTIN, MCCORMICK, PLOWMAN, SHERMAN, SNOWE-MELLO, SULLIVAN, THOMAS

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-477) AS AMENDED BY SENATE AMENDMENT "C" (S-529)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Promote Transparency in Government"

S.P. 624 L.D. 1806

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-523)**.

Signed:

Senators:

FARNHAM of Penobscot
PLOWMAN of Penobscot
PATRICK of Oxford

Representatives:

BEAULIEU of Auburn
CAREY of Lewiston
CHIPMAN of Portland
DAMON of Bangor
JOHNSON of Eddington

LONGSTAFF of Waterville
RUSSELL of Portland
VALENTINO of Saco
WILLETTE of Presque Isle

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-524)**.

Signed:

Representative:
CROCKETT of Bethel

(Representative MITCHELL of the Penobscot Nation - of the House - supports the Majority **Ought To Pass as Amended by Committee Amendment "A" (S-523)** Report.)

Reports **READ**.

On motion by Senator **FARNHAM** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-523) **READ** and **ADOPTED**.

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

Ordered sent down forthwith for concurrence.

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

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Establish the St. John Valley Regional Planning Commission" (EMERGENCY)

H.P. 578 L.D. 771
(C "A" H-864)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-864)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (H-865)** (3 members)

In House, April 3, 2012, the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-865)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-865)**.

In Senate, April 4, 2012, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-864)**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

On motion by Senator **MARTIN** of Kennebec, the Senate **INSISTED** and **JOINED IN A COMMITTEE OF CONFERENCE**.

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

- Senator **RECTOR** of Knox
- Senator **MARTIN** of Kennebec
- Senator **HOBBS** of York

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:

Mandate

An Act To Ensure Effective Teaching and School Leadership
H.P. 1376 L.D. 1858
(C "A" H-900)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 33 Members of the Senate, with 1 Senator 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 Create Efficiencies in the Administration and Enforcement of the Maine Uniform Building and Energy Code
H.P. 1312 L.D. 1787
(C "A" H-892)

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

Ordered sent down forthwith.

An Act To Ensure Notification to Victims of Domestic Violence, Sexual Assault and Stalking When Defendants Are Released on Bail

H.P. 1295 L.D. 1760
(C "A" H-884)

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#452)

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

NAYS: Senators: None

EXCUSED: Senator: SAVIELLO

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

Ordered sent down forthwith.

An Act To Adopt the Use of Standardized Risk Assessment in the Management of Domestic Violence Crimes

H.P. 1263 L.D. 1711
(C "A" H-890)

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

An Act To Revise the Income Tax Return Checkoffs

H.P. 1347 L.D. 1826
(C "A" H-880)

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

REPORTS OF COMMITTEES

House

Ought to Pass

The Committee on **VETERANS AND LEGAL AFFAIRS** on Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices (EMERGENCY)

H.P. 1410 L.D. 1906

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

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

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

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

Ought to Pass As Amended

The Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Victims of Domestic Violence"

H.P. 1381 L.D. 1867

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-907)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-907)**.

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

READ ONCE.

Committee Amendment "A" (H-907) **READ** and **ADOPTED**, in concurrence.

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

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

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Requiring Communication of Mammographic Breast Density Information to Patients" H.P. 1394 L.D. 1886

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-905)**.

Signed:

Senators:

McCORMICK of Kennebec
CRAVEN of Androscoggin

Representatives:

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

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

Signed:

Senator:

FARNHAM of Penobscot

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-905)**.

Reports **READ**.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#453)

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

NAYS: Senators: None

EXCUSED: Senator: SAVIELLO

34 Senators having voted in the affirmative and No Senator having voted in the negative, with 1 Senator being excused, the motion by Senator **McCORMICK** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-905) **READ** and **ADOPTED**, in concurrence.

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

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

ENACTORS

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

Emergency Measure

An Act To Facilitate Rapid Response by Out-of-state Businesses to State Disasters

H.P. 1357 L.D. 1836
(C "A" H-868)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President Pro Tem, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith for concurrence.

Mandate

An Act To Amend the Laws Governing Freedom of Access
S.P. 456 L.D. 1465
(C "A" S-514)

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

Acts

An Act To Evaluate the Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law

S.P. 459 L.D. 1470
(C "A" S-441)

An Act To Implement the Recommendations of the Stakeholder Group To Review the Maine State Grant Program

S.P. 680 L.D. 1908

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

Ordered sent down forthwith.

An Act Regarding the Interstate Compact for Adult Offender Supervision

S.P. 603 L.D. 1755
(C "A" S-513)

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

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

ENACTORS

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

Act

An Act To Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline

S.P. 557 L.D. 1658
(S "A" S-474 to C "A" S-413)

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

Ordered sent down forthwith.

Senate at Ease.

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

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

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

ORDERS

Joint Order

On motion by Senator **COURTNEY** of York, the following Joint Order:

S.P. 682

Ordered, the House concurring, that when the Senate adjourn they do so until Monday, April 9, 2012, at 10:00 in the morning.

READ and PASSED.

Sent down for concurrence.

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

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

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

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

RECESSED until the sound of the bell.

After Recess

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

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

REPORTS OF COMMITTEES

Senate

Ought to Pass Pursuant to Public Law

Senator McCORMICK for the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Simplify the Certificate of Need Process and Lessen the Regulatory Burden on Providers" S.P. 681 L.D. 1909

Reported that the same **Ought to Pass**, pursuant to Public Law 2011, chapter 424.

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

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

Ordered sent down forthwith for concurrence.

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

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

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

Off Record Remarks

On motion by Senator **COURTNEY** of York, **ADJOURNED**, pursuant to the Joint Order, to Monday, April 9, 2012, at 10:00 in the morning.