

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

In Senate Chamber
Monday
June 13, 2011

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

Prayer by Senator Margaret M. Craven, Androscoggin County.

SENATOR CRAVEN: Thank you Mr. President. Mr. President, men and women of the Senate, let us create a prayerful space. Let us also remember in our prayers the Goodall family and especially LeAnn to have a speedy and complete recovery.

Dear friends, we have heard prayers this session from many faith traditions, all of whom I enjoyed and found inspirational. This afternoon the prayer is from the Goddess tradition and it's called Make Me Strong In Spirit, by Abby Willowroot.

Make me strong in spirit, courageous in action, gentle of heart. Let me act in wisdom, conquer my fear and doubt, discover my own hidden gifts. Meet others with compassion, be a source of healing energies, and face each day with hope and joy.

At sessions' end every year, it seems to me that all Legislators could use some healing; a kind word to heal our hearts, to heal our regrets, to heal our losses, and to heal our friendships. This is my wish for you. Comfort on difficult days, smiles when sadness intrudes, courage to know yourself, patience to accept the truth, confidence for when you doubt, faith so that you can believe, friendships to brighten your being, hugs when your spirit sags, and love to complete your life. Amen.

Pledge of Allegiance led by Senator Thomas B. Saviello of Franklin County.

Reading of the Journal of Friday, June 10, 2011.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Schedule for Redistricting
H.P. 387 L.D. 494
(C "A" H-76)

In Senate, April 26, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-76) AND HOUSE AMENDMENT "B" (H-565)**, in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

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

H.P. 418 L.D. 535
(H "A" H-498 to C "B" H-402)

In Senate, June 9, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) AS AMENDED BY HOUSE AMENDMENT "A" (H-498)** thereto, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-402) AS AMENDED BY HOUSE AMENDMENT "B" (H-606)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **FARNHAM** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

Senate at Ease.

Senate called to order by the President.

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator **RECTOR** for the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Clarify the Workers' Compensation Insurance Notification Process for Public Construction Projects"

S.P. 477 L.D. 1515

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

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

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

Ordered sent down forthwith for concurrence.

Ought to Pass As Amended

Senator TRAHAN for the Committee on **TAXATION** on Bill "An Act To Establish the Maine New Markets Capital Investment Program"

S.P. 311 L.D. 991

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-299)**.

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

READ ONCE.

Committee Amendment "A" (S-299) **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.

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require a Two-thirds Vote To Approve the Issuance of a Bond or Security by the Maine Governmental Facilities Authority
H.P. 728 L.D. 984
(C "A" H-304; S "A" S-182)

Comes From the House, **FAILED FINAL PASSAGE**.

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

Act

An Act To Amend the Laws Governing the Deadline and Conditions for Municipal Approval of a Second Racino and To Allow a Tribal Racino in Washington County
I.B. 2 L.D. 1203
(C "A" H-400)

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

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

Senate at Ease.

Senate called to order by the President.

HELD MATTER

Bill "An Act Concerning Solid Waste Facility Citizen Advisory Committees"

H.P. 522 L.D. 693
(H "A" H-500 to C "A" H-444)

(In House, June 10, 2011, Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 10, 2011, **PASSED TO BE ENACTED**, in **NON-CONCURRENCE**.)

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

ORDERS OF THE DAY

Unfinished Business

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

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

HOUSE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting"

H.P. 176 L.D. 199

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-385)** (7 members)

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

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

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 6, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385).**)

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

Senator **FARNHAM** of Penobscot 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 Alfond.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, it doesn't feel like we've been away too long and already we're discussing an issue that kept us here a lot last week. I rise around the pending motion and urge everyone to not pass the pending motion because requiring a voter ID is going to be costly and it's going to be a burdensome solution to a problem that I don't believe exists. Requiring a photo ID at the voting booth and then providing a provisional ballot and system is going to impose additional costs to all of our towns. We have a fiscal note that shows us. I'm sure I'm not the only legislator in this Body who's heard from city and town officials back home that money is tight. Adding this provision will require that municipalities across our state spend time and resources educating clerks and increasing burdens, not to mention all the voters. Surely, as we have heard, our senior citizens, the disabled, and our young people will disproportionately be affected by this change of voter identification. There is simply no evidence that voter ID requirements solve any real problems here in Maine. People simply do not impersonate other people in order to vote and when they do they are caught. Like I said, when they do they are caught. It simply doesn't happen here in Maine. It doesn't happen across the country. Maine already is respected nationwide for the outstanding job we do making sure that all eligible voters are able to cast their votes with as few inconveniences as possible. I am urging the Body to reject this pending motion so that we do not put another impediment in front of voters here in Maine as they go to vote on Election Day. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, I wanted to just share a couple of things with you. Very recently I was concerned. I thought that I had missed a vote last week. Fortunately, when I called, as I was trying to figure out how to get back to Orono and back to Augusta the time allotted so I didn't miss any of the session, and luckily I was off by a week and the clerks were very wonderful and sent me an absentee ballot. I just dropped off that absentee ballot today, the day before the election. First, we got rid of that. We wouldn't be able to do that from what we did last week. Now I stand here in opposition to this motion because my last voting

experience was that I ran in after driving over to the town hall, ran into vote, and realized I had left my purse in the car. Not a big deal because I didn't need any voter ID at that time, but it was a great example of how we will discourage people from voting. I would probably have been late and would have run back to my car, gotten my ID and gone back inside. My guess is that not everybody would do that because they can't be late or they have other responsibilities. It also is a higher cost to those people who don't have IDs. For example, there are plenty of people who don't drive, for whatever reason. They would have to get an ID. That cost would fall back on the State, so the taxpayers of Maine would actually end up having to pay for that voter ID. I just don't think that we need to discourage taking part in our democratic process. This is just one more effort, in my opinion, to discourage taking part in our democracy. For the taxpayers of Maine and for the citizens of Maine who don't want to be discouraged to vote and who want to have every barrier taken down so that they can take part as easily as possible and having the most accessible system that we now currently have, I don't think we want to go backwards because of some smoke and mirrors about voter fraud when we know that there hasn't been voter fraud, only a very small time amount in the entire history of this state. I hope that you will vote against this motion along with me. Thank you very much, Mr. President.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I am standing in opposition to this for a couple of reasons. First, many of the elderly people that I have in the city of Biddeford have been asked by either their children or by the State to give up their license. It was a real loss of freedom and sense of independence for them. Now to find out they have to get something other than a license, like they lost their license for an infraction or several infractions, bothers them. That's one thing. What do we do to our elderly that we have already striped of that dignity of feeling independent? That car is their last feeling. That driver's license. They have showed up for voting with that for years and years, many of them. Everybody knows them by name and they can't vote because they don't have a license.

I have another concern. America has become the policeman of the world. We go and we set up democracy. Are young people are giving their lives. When they go to vote, they stand in line, unlike Americans who don't want to stand in line because voting is not as sacred as to somebody who is just getting to do it. Those people who have never done it, they don't have a picture ID. They really don't know people. It seems to me if our American soldiers are able to vote for that, are able to go over and set up a democracy, and talk about how proud we are because we are putting democracy and voting into other countries, and we come home to our state and, low and behold, you need a picture ID. I don't get it. What are the soldiers fighting for? We can only get about 50% and we're one of the highest. One more way to keep people from voting. I did run into a young soldier this weekend who told me exactly that. That was his request and his message to bring home. He was willing to risk his life for our country, but he didn't understand why our country was trying to make them prove even more who we were when we don't do that to developing countries. I would stand in opposition to this and say you've only got 50%. That's not even a passing grade even in the school systems now. You have 50% voting. We're going

to insult our elderly, who are at the best voting age. New democracies don't have to show up with a picture ID. It's going to be a cost to a state that is trying so hard to dig itself out of a hole. I don't get it. I would ask you to vote in opposition. Thank you.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, here we go again. I have to say that, in my mind and my constituent's minds, I've heard a lot about this. Supporting this bill is akin to saying the people of Maine are cheating, accusing them of cheating, and it's saying that we have to protect them from themselves when they are not cheating. What we are doing with this bill is further eroding our electoral process. I believe we should be making it easier for people to vote, not harder. I believe in this bill we're going down a road that is telling our citizens that there has been shenanigans going on in the past, they have been cheating, they have been dishonest, and voting where they don't belong or where they don't reside. I said here on the floor during the last debate, my background, whether in Maine or whether in other states down south back in the 1960's, was trying to register voters and trying to get them to the polls because I believe there is nothing more sacred than the vote, the integrity of the vote. I'm not going to stand here and try to assume that people are cheating. I assume that people aren't. I believe that people are honest, especially when it comes to their vote. I know that if we're going to do ID I'm going to have to take an 88 year old mother, Mr. President, down to motor vehicle sometime before the next election, even though everybody in my community knows her well, and get a photo ID for her because she stopped driving many years ago. She doesn't have a driver's license any longer. She doesn't have a clue where it is. We talked about it this weekend. That's going to be a major inconvenience, not only to my mother, but to a lot of other mothers and grandmothers and grandfathers. I think this is putting another roadblock, as I said, and impeding people's ability to go and vote easily and without the assumption that they are lying about who they are and they are lying about the community they live in. I think that's a blight on the state. I think it's a blight on the supporters of this bill and I think that we really should be talking far more, far more, about the good things that we can and have been doing in this Body about jobs that we all know that we need, about an economy that we all know has been dragging and is going to continue to drag until we do something. I think we are doing things about it. I think that we should be more concerned about doing things in a bi-partisan manner. In the last week I've certainly said, and sometimes not quite as respectfully as I should have, that we should be putting our hands across the aisle and working on things in a more collaborative manner. This is going to be a party line vote. We all know that. I know how to count as well as anybody in this building. I also know what this bill is about as well as anybody else in this building. Ladies and gentlemen, shall we do what's right for the people of Maine and try to encourage people to vote early, or on Election Day at their polls if they can? We have to be able to do things better than we're doing. Thank you, Mr. President, for allowing me the time to speak.

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

Senator **FARNHAM:** Thank you Mr. President. In our daily lives today we show our photo ID for many things that I would say aren't half as important as proving our identity when we come to vote. We use our photo ID, our students use them in their colleges. Many of our folks use them in their businesses. We need to use photo IDs in order to use our plane tickets. We need a photo ID in order to board the Concord Bus, I found that out when I went to put my son on a bus the other day. We need a photo ID when we are renting movies. We need a photo ID to use our own money, in a lot of cases in our banks. We need a photo ID when we're cashing a check. We need a photo ID when we're doing certain purchases. I would say any of those things are not half as important as proving our identity when we go to vote. That's not asking too much. If anything, why aren't we doing it now? A lot of us expect to do it.

As far as our senior citizens go, they are so proud. A lot of the ones I know, the last thing they want to do is give up that driver's license. They want to hang onto it just as long as possible. A lot of them, if they have been driving, are hanging onto that until the very end. The least we can do is, and it is what we did with my dad, as soon as they are to be done with driving, or the family helps them along with that, is get them that photo ID right away so that at least they continue to have that identity in their pocket so they can use it when they are doing other things in their daily lives. Students on campuses now, you've got to have that photo ID with you to get your meals, your books, or to access your dorms. It's become part of their lives as well and those are allowed and will be able to be used in this case to prove their identity when they are coming to vote at our polls.

Our soldiers, our military, our veterans; talk about folks who are used to using an ID. That military photo ID is the first thing they get. Those of us who have been in the military, there are several of us here, that military ID card is your ticket to everywhere. That's your identity. That's what you carry around. Our military folks are very much used to this. They are used to using it in order to get on the Air National Guard Base. You have to have it to purchase groceries at the commissary. You have to use it to purchase anything at the base exchange. You need it to access buildings. You need it to access airplanes. In the case of the Air National Guard, right up in Bangor, they've had to go to 100% ID check. It hasn't always been that way and it sure was disappointing that we're at that place in our culture where everybody now entering that base has an ID checked. My husband, who has been going there for about 20 years and knows the people that work in the security guard shack, is happy to pull out his ID and say, "Yup, it's still Colonel Farnham." We do it commonplace because we're proud to show our identity. We're proud that it is me who's on this military ID card. I'm happy to show it and I'm happy to prove it. I think that group will be happy to show their IDs and they are always happy to have them because they know that this is a proud moment in their lives. They have that identity with them and they are proud to show it.

I think if there is anything so important that would require a photo ID this is the one thing that we should be happy to prove our identity in order to do. Thank you.

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

Senator **PATRICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I believe this is the second of voter suppression bills, probably fully supported by

Charlie the Plumber, along with the 83 Republican representatives and one tribal representative.

THE PRESIDENT: The Chair would advise the Senator that he is skating very close to the edge with respect to questioning the motives of Senators in support of this bill.

Senator **PATRICK:** Thank you for that, Mr. President. I will try not to skate any longer. I appreciate that. This is another attempt to chip away at the constitutional right. It gradually erodes our rights and freedoms. It's almost like the old tale of the boiling frog in water. It happens almost unnoticeably. Before you know it, you are a cooked frog and you never saw it coming. I'm telling you here today that the heat is on. The heat is on to take away our voting rights. Americans take pride in living in a democracy and the most fundamental part of a democracy is your right to choose. We exercise our right to choose at the voting booth. At first glance, proving a photo ID on Election Day may seem especially burdensome, but let me tell you how it can be more than just a hassle. It is outright disenfranchising. It discriminates against those who do not necessarily carry a photo ID at all times. Who are they? Many are already on the margins of society, like the poor and the disabled. Many are the elderly who no longer drive, but are certainly capable of casting their ballots. Many are legal residents who may not yet have photo IDs. We had one person from Aroostook County, actually from the Allagash, who actually happens to be a logger who testified at our committee and basically said most loggers do not bring their wallets into the woods because they don't want to lose them. Therefore, they don't have their IDs on them when they go to the voting booths. Some of them live 45 miles from where they vote. If they don't have their ID on them, they are cooked, just like many frogs. Many of those who live in rural areas may not carry their license with them from the woods to the voting booth. How are we going to handle the thousands of people who vote by absentee ballots? Are they going to have to send in a copy of their photo ID before they send in their absentee ballot request? Is a signature going to be good enough? What about people who pick up absentee ballots for their elderly parents? Are they going to have to show papers proving their relationship to the mother or the father?

This is a solution to a problem that doesn't exist. We already have protections in place to protect the integrity of our voting process. You have to prove your identity and residency when you register to vote. This is a system that has worked for the 191 years and it didn't require a photo ID on Election Day. I think in my last testimony I actually testified to the fact that I saw the disenfranchising of people who went to register to vote that didn't have the proper ID, which is fairly simple. Some of them came back with the proper ID and others, I know, will never cast another vote in their whole lives. Anytime you ask the elderly or the disabled or the poor to take an extra step you are presenting a stumbling block. Too many stumbling blocks discourage a person from taking that step into the voting booth. For all the talk by our Chief Executive proclaiming the virtues of small government, a law like this expands government and puts Big Brother smack dab in the middle of our lives.

The fiscal cost, for a moment I'm going to put aside our constitutional rights and take a look at the cost of implementing this change. Indiana has a similar voter ID law and in order to avoid constitutional challenges the state provided free photo IDs. In three years Indiana has spent an additional \$10 million. I ask my legislative colleagues and you, does Maine have an additional

\$10 million to spend? Is there a real risk of voter fraud that warrants increased government intervention and such an outrageous expense and cost? I know that there will be those that will stand up and say that the cost will not be anywhere near the \$10 million because I think the cost, supposedly, is only going to be about \$2,900 or something like that. How they can educate the clerks and hand out free photo IDs is beyond me. It's just unbelievable. Some may say the cost and burden is worth it. I would ask, why? There is no evidence of substantial voter fraud in Maine. There have only been two cases of people voting twice in over 30 years. There is a greater chance of getting stuck by lightening than there is an instance of voter fraud. I will say this again; this law will not solve anything. It creates problems, costs, and discrimination. I once again read from the handout that was sent by the good representative from somewhere down near the Portland area, the Bill Nemitz thing. It has to do with the Bangor clerk. "Up in Bangor, meanwhile City Clerk Dubois is already shuttering at the thought of Election Day 2012. In addition to telling the unregistered they can't vote, Dubois and her colleagues will be forced by another bill that is nearing final approval to check every registered voter's photo ID. I would rather see Election Day registration continue rather than deal with the fallout, Dubois said. We're going to have some very upset people and, at last, it will be the clerk's problem." I will also quote from what I heard said in testimony. She believes having a photo ID is actually going to add three to five minutes time per voter. That's a great cost savings, if you ask me.

I'll say one thing about having a photo ID, there are a lot of times we're asked to have a photo ID, but there are an awful lot of times I am angry as heck because I have to show it. I bought my home mortgage from the Rumford Maine National Bank. I did business there for seven years. Evidently the bank manager wanted to show she had the power and authority. I stood up after going there for seven years. She was the mother of a girl I graduated with. She said, "Could I see your ID please?" I said, "I don't think you want to do that, Mrs. Dawson. I've come here for seven years and had my home mortgage here for six years." She said, "You have to show me your ID." I said, "I will show you my ID one time only. What I'm going to do is I'm going to close my bank account. I'm going to close my checking account. I'm going to take my home loan and I'm going to go across the street." That's exactly what I did. I showed her my ID. Boy, she won on that one. Just recently I tried to roll some money out of an IRA I had in Wall Street. I tried to move it over to the credit union here in Augusta. Guess what? You have to have a gold medallion signature in order to get your money from one place to the other. Thank God, because I didn't want anyone to get my money. I'm really happy with that. I don't know if you are familiar with a gold medallion signature, all it is is a special stamp that a financial institution has saying they are insured up to whatever it, \$500,000. The funny thing of it is that it wasn't even my credit union that I went to. I went to the one in Mexico, Oxford Credit Union. They are a great credit union as well. They didn't ask to see my photo ID. It's just amazing.

There are so many times in life that we add these extra burdens. We're now going to be telling the citizens of the state of Maine, "Shame on you if you can't register before 21 days. You have 210. Now if you've forgot your photo ID, shame on you. I'm going to make you do a provisional ballot that may or may not be counted." By golly, I want to make sure every ballot is counted. There are people that I know in Rumford that have been there for years and years, several of them that I know are in their 90's, and

love to come to vote. If you ask them for their ID, well I'd hate to be the clerks to find out what they are going to tell them. Ladies and gentlemen, we don't need this. I would ask you to vote against this pending motion. Thank you.

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

Senator **CRAVEN:** Thank you Mr. President. Men and women of the Senate, I'm not going to talk about disenfranchising our senior citizens or our homeless population or our young students or people who move a lot and have trouble changing their address. I would like to talk about money. In 2007 Indiana changed and set up a voter photo ID for citizens to vote. Since 2007 they have spent \$10 million and another \$2 million to provide free photo IDs to people. I think that this bill creates a new costly government program. Are we streamlining programs in favor of business interests? Under L.D. 199 we would be adding regulations that inconvenience and disenfranchise ordinary people. I think that to require new procedures will create substantial burdens on election administrators and poll workers. People unaware of the new law could be turned away from the polls and asked to vote by provisional ballot, which requires more processing on Election Day. I think when we debated the same day voting registration so many people were concerned about the work burden on our clerks. This is going to add a lot more of a burden than the same day voting would have relieved them of. Finally, I think voting is the cornerstone of our democracy and we should be making it easier every year and every session as opposed to creating barriers. Thank you, Mr. President.

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

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, I didn't say anything about the bill last week because I thought this one was the more important one. I just picture that morning, maybe not next Fall as the Fall after. There will be a lot of fallout, I believe, because of the registration. I picture the years that I've been through the polls. I think our clerks are going to have to find the people who are a little more rapid in their ability to get us moving along towards the voting booth because sometimes, even though maybe the person knows you, they have a bit of trouble finding your name down the list. It just takes time. Now I don't know if they are very conscious, many of the people that are at the polls now. I'm just wondering how much they are going to have to struggle with the voter ID piece as well as finding the name down the list. I feel there is no fraud to speak of. I've never heard of any. I have the largest cemetery in the state in my district. I feel that we're doing okay the way we're doing it. We're going to be unhappy, many unhappy people, at least a year from next November. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, while we're telling stories I thought I'd tell one. Last year, at the age of 50, I went to a Red Sox game for the first time. When I went to buy a beer I had to have an ID. Well, I was carded. I was so pleased. I thanked the gentleman. He said, in

the typical Massachusetts fashion, "Don't be so pleased, lady, you can't get a beer without a card here." I said, "No matter how old you are?" He said, "Doesn't matter. No card, no beer." Boy, those people plan well to go to a Red Sox game. Anybody who wants a beer makes sure that they have a photo ID in their pocket. There is a lot of beer being drunk at the Red Sox game, I can guarantee you. I bought cold medicine the other night with a decongestant in it. I had to show my ID. Couldn't get it with a decongestant in it if I didn't have my ID, but luckily I drove there so I had it in my wallet.

Seventy-five percent of people polled last week believed that you should have to show a photo ID in order to get your ballot. The Maine Town and City Clerk's Association polled their members, 44% of the people who were polled were for the bill and 29% were against. The number one reason for opposing it is that they don't want to irritate voters. Number one reason for supporting it was to decrease errors in checking the wrong name.

I don't travel too often, but I do go through the airport line every once in a while. The TSA agents, I guarantee you, do not take three to five minutes to double check my ID and they are pretty thorough because they would prefer that somebody didn't blow up a plane that day. The reason why we have a peaceful transition of power in the United States of America is because people believe in the integrity of the ballots that are cast. We don't have government overthrows. We don't have violence at our balloting because people believe that if you stand up there, you show who you are, and you vote and the will of the people is not thwarted. I believe in the peaceful transition of power. I don't see why we shouldn't have an ID with you. What kind of IDs do you need? Any kind that will get you on a plane. Any kind that will help you cash a check. Any kind that will help you buy a beer at the Red Sox game. Indiana did spend a lot of money and Maine learned a lot from it. When we decided the list of things we wanted you to be able to show, we greatly expanded it to college IDs, any State issued ID, any military issued ID, any government issued ID, and then, for those people who fall outside of that, there will be an ID provided. We have some one million people registered to vote in the state of Maine. We have over a million driver's licenses issued in the state of Maine, which leads me to believe some people just don't vote, but there sure are a lot of driver's licenses out there. When the people ask for it and believe in it, the clerks think it's reasonable, and it ensures the transition of power that's peaceful and confident, I don't think that it is going to have the effect that you think it will. We can place in a voter's mind the confidence that their vote counts and that their vote has the integrity of every other vote. What I see in only two prosecutions in the state of Maine, is that people figure they are more than likely to be hit by lightning than to be caught cheating at the ballot box. Thank you, Mr. President.

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I've heard in this debate a lot of reasons why some people think we need IDs. In my community I do not, nor do any of my constituents, need an ID to cash checks. They need ID to get on a plane, for those that travel. If they are getting on the AMTRAK they don't. If they are getting on a bus they don't. A lot of my constituents are quite comfortable where they are. A lot of them might be seniors. I know that my Mom hasn't needed a driver's license or a photo ID for anything in quite a few

years. I remember when I got my first driver's license. There was no picture on it. Actually, in some other states, when I showed it they thought it came out of a Cracker Jack box. It was a nice folded up piece of cardboard. The amusing part was that there was no picture on it, there was just my signature. It was my word that it was me. People went by it. We started putting pictures on licenses much later. Driving a car is a privilege in the state of Maine. It's not a right. I believe that voting is not a privilege but a right. You put a picture on a driver's license. To get a driver's license you have to prove you know how to drive. I don't think we're going to ask the voters of Maine to prove that they know how to vote. We don't have poll taxes where you have to pay to vote. They did in some parts of this country, literacy tests when you would go to vote. We had many ways in this country years ago of preventing people from voting that were legally able to vote; because of the color of their skin, because of their age, or because of their ethnic background. They refused to vote in some places because the rules were made so strict, and I think so abhorrent, to keep them from voting. As a young man I traveled to parts of this country where we dealt with getting people registered to vote and explained to them that they could legally vote. They did not have to pay a poll tax in order to vote. They did not have to go through special requirements to vote. All they had to do was show up.

Mr. President, I'm starting to wonder how far down the road we're going with this? We're making requirements now for people to vote. We're making sure they can't register on the day of the election. We're making sure that they have a photo ID. I've explained my personal problems that I'm going to have trying to take an elderly mother. I know I'm going to have to take quite a few of my constituents to the Department of Motor Vehicles to get an ID for them. We're making it harder to vote. We're putting requirements in the way that were never intended to be in the way, I don't believe. The ones that we had many years ago we got out of the way. Many years ago you had to register to vote a month before the elections. Many years ago you had to do a lot of things in order to vote. You had to pay. Basically, you had to be a rich white guy to vote in some parts of this country. Years ago. We got rid of those laws and those rules, and we made it easier for people to vote so we had a higher percentage of our citizens coming out to vote.

I think that is what this really is about. Are we going to make it easier for people to vote, as I think we should, because I trust people who say they are who they are. When I go into my poll they say to state your name in a clear, loud manner. This Body has heard how loud I can speak. Believe me, at my town clerk's office or my town voting offices, they have heard how loud I can clearly state my name before getting handed a ballot. That, to me, is what America is about. I do not believe America was ever, or ever should have been, about a poll tax. I do not think that America should ever have been about meeting certain requirements, literacy tests. I don't believe that's what this country is about. I certainly don't believe that is what this state is about. I believe this state has consistently led the nation in voter participation and voter honesty. We haven't had fraud in this state. We haven't had the problems that they've had in other states. By God, when we do a recount the person with the most votes wins. We count every vote and every voter counts. We have never had a problem or have been on TV looking for hanging chads. All we look for is voter intent. When we do our voting here in Maine we should trust the people that are in there

voting as much as they should trust us. Thank you again, Mr. President.

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

Senator **FARNHAM:** Thank you Mr. President. I just wanted to clarify, the bus line that I was referring to that asked my son for his photo ID in order to use his bus ticket was the Concord Bus Line. I was wondering if perhaps there was a misunderstanding. I know the Concord Bus Line in Bangor required a photo ID in order for my son to use his bus ticket. Then I would just reiterate again that I'm proud to prove my identity with a photo ID in order to receive my ballot. Actually a lot of people ask why we don't already do this. They are walking in there, pulling their IDs out of their pockets, and they waving us off. Thank you.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I think the Senator from Penobscot, Senator Farnham, did a good job of explaining why it's going to be pretty easy and reliable for most people, most of us, to have IDs available. My concern is more a logistic concern. I think the issue that I really am tussling with here, I just don't see a good answer, is the person who does not have a driver's license, the person who does not have a photo ID. The original bill, evidently, those persons would come in, even though they had been voting in this particular place for years would not be able to vote. I think of my friend, Ralph, who is very old and had been voting here for a long time. I don't even know if he carries a wallet. In any event, he comes in with no ID. What happens? He would not be able to vote. It seems like the amendment that was put on says, "Yes, you can, Ralph, you can vote if somebody here knows you. One of the clerks or one of the election officials." He's standing in his A-D line and he says, "I've voted here for years." This clerk is rather new and doesn't know him. He doesn't come under that. She has to check down the line. I see all this happening. "Anybody know Ralph?" It would go down the line. No, they don't, but, "I've got a Hazel down here. Anybody know Hazel?" I can just see this kind of going back and forth. It probably becomes like a lack of dignity for some people who are waiting there to be recognized. If they are recognized by somebody, then there is an affidavit involved. Mr. President, I know the intent here, and you can't argue with the intent because you want to make sure the person voting is the person voting, but when we look closely at this and we see what we're doing, and commonsense obviously became an issue with the committee, which is why they put the amendment on it, we end up with something that could be really not only confusing but it could really be destructive to one's own dignity, as I said earlier. As well intended as this whole thing is, and it's hard to argue against using an ID if you're going to vote because you use an ID for everything else, but there are people who won't have that. The question is, are you going to subject them to a situation, to an environment, where they are going to feel that maybe they won't get a chance to vote because nobody does know them or they are going to have to go through a bunch of things they are not used to going through after having voted in this place for so many years. I'm concerned about that. It may be an unintended

consequence. I really think it is an issue that we should think about carefully before we pass this bill. Thank you, Mr. President.

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

Senator **DILL:** Thank you Mr. President. Men and women of the Senate, I had hoped to circulate an editorial that appeared in the New York Times on April 26, 2011, but I was not allowed to. Had you received it, you would have seen that in that editorial a fact was cited. A survey by the Brennan Center for Justice at the New York University School of Law found that 11% of citizens, 21 million people, do not have a current photo ID. That fraction increases to 15% of low income, voting age citizens, 18% of young eligible voters, and 25% of Black eligible voters. I share that with you because I think it kind of underlines the problem here. I'd also just like to respond to this notion that because we have to show IDs at other places that it's a good idea to have to show an ID in order to vote. It really boils down to your fundamental notion of freedom, Mr. President. You may believe, when you are in the airport, that you are safer because you waited in a long line and showed your ID to the security. I, personally, don't. I don't believe, as Americans, that it serves us well to have policies that make us think that we are safer when we're not. As we all know, the terrorists that have attacked our country, for the most part, had IDs and showed them. That didn't prevent the problems. If you believe, as a society, that freedom in America means having to prove your identity with some sort of identification I just disagree with you. I think that if freedom and liberty mean anything it's being able to show up in your community where you are known to cast your vote and not have to prove with government issued paperwork that you are a citizen. I wish that I had been able to share this editorial with you. If anyone's interested in seeing it, I'm happy to make a copy available. Thank you, Mr. President.

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

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#237)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, HILL, HOBBS, JACKSON, KATZ, LANGLEY, PATRICK, RECTOR, ROSEN, SCHNEIDER, SULLIVAN, TRAHAN, WOODBURY

EXCUSED: Senator: GOODALL

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

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/9/11) Assigned matter:

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

H.P. 972 L.D. 1326

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

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

Tabled - June 9, 2011, by Senator **WHITTEMORE** of Somerset

Pending - **ACCEPTANCE OF EITHER REPORT**

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

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

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 Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, first of all I want to thank the good Senator from Knox, Senator Rector, who supplied me, and many of us, with these

ties. I understand I have the honor of wearing the first tie that the Senator from Knox, Senator Rector, ever owned.

Mr. President, I rise in support of the pending motion. For me, this bill comes down to two questions; do we believe in transparency or secrecy? Do we believe in competition or monopoly? I think of my hometown of Augusta and our city government and our school department. For our city employees, municipal government has great insurance through the Maine Municipal Association insurance plan. For our teachers and our school system, we're insured through the Maine Education Association Benefits Trust. Our city is not forced to buy insurance through Maine Municipal for our city employees. We're not forced to continue to buy our insurance through the Maine Municipal Association. Our school board is not required to buy its health insurance through MEA. Our school board is not required to continue to buy its health insurance through MEA, kind of. Why kind of? Because for the MEA Health Trust it's a lot like the Eagle's song Hotel California, you can check out any time you want, but you can never leave. Why is that? It's all about transparency versus secrecy, competition versus monopoly.

Let's go back to my city employees in my home city of Augusta. You might want to be thinking about your own city employees, or town employees, in your own district. This afternoon our City Manager, Bill Bridgeo, could make the short trip from City Center up by the Civic Center to the MMA, the Maine Municipal Health Trust office. He could walk in and he'd be met by very friendly workers. He'd say, "You know, we're thinking of bidding out our city worker health insurance. I'd like to get our claims data so one of your competitors can review it and give us a quote." What would happen next? He'd be offered a place to sit down, probably a nice comfortable chair, and a cup of coffee. Then they would go out back and they would copy Augusta's claims data and they would give it to him. The City Manager could then use that to shop around and see if there was a better deal for the City of Augusta from some other insurer, a better deal that might save Augusta's property tax payers hundreds of thousands of dollars. Let's imagine that the same afternoon our school superintendent wants to do the same thing. She'd get in her car and she'd drive to the MEA Health Trust which, by the way, is about 100 yards away from the Maine Municipal Offices. She'd walk in and I'm sure she'd be met by an equally nice person who would also offer her a nice place to sit and a cup of coffee. When she asks for the claims data for the Augusta School System so that she might be able to shop for a better rate for teachers, she would be politely told, "No, you are not leaving with your own claims data, your own claims data, because we're not going to give it to you." If any of your superintendents in your RSUs or SADs or school districts made the same inquiry you'd be given the same answer. These school districts are the customers of the MEA Trust who only want to access their own claims information for their own teachers and the Trust won't give it to them. It's just like the Wizard of Oz, don't ask to look behind the curtain because you can't. Compare the transparency of the Maine Municipal Association with the respect to city employees with the brick wall of the MEA. Sure, our school board can still go to other companies and solicit bids for our teacher's health insurance contracts, but, here is the dirty little secret, without claims data no school system is ever going to get a favorable rate. The potential insurance company competitors have to assume the worst and the only contract you'll get without your own claims data is one you'll pay through the nose for. The result is, if your SAD or RSU is in the MEA Trust,

you can check out but you can never leave. Keep in mind we are talking about property tax payer's dollars here. This complete lack of transparency, the inability of local school districts to be able to access their own data, allows the MEA Trust to maintain its monopoly, which is just what it wants.

We're a small state. We're a relatively poor state. Yet the MEA Health Trust is the largest such organization, not only in Maine, not only in New England, but in the entire east coast. MEA just doesn't discourage competition, they eliminate it. One plan, one cost, that's all the school districts have to choose from. It's a pretty sweet deal and it's a deal that allows the Trust to get a multi-million dollar rebate every year; rebates that go to one of three places. First, the rebates go to pay down the rates. This is good, but it suggests that perhaps premiums are too high in the first place. Second, the rebates go to the Trust itself. Keep in mind, they are not self-insured. They pay premiums to Anthem. Yet this Trust is now growing a fund balance, of which, a few months ago, was \$87 million. Let's put that in perspective. That's over three times as much as we have in the entire Maine Stabilization Fund, our Rainy Day Fund for the State. It's more than we pay for the entire biennium to all of towns and cities for revenue sharing. Let's not forget where that money comes from. It comes from property taxes, property tax payers in my home town and your home town. I pay for it. You pay for it. Your neighbors pay for it. The Trust has grown from \$60 million just a few years ago to \$80 million to \$87 million, although it's been paid down recently. That's only two places where the money goes. There is a third. Let's talk about that third. The MEA Trust pays the Maine Education Association itself almost \$1 million a year for "administrative expenses". It's up about 50% very recently. Transparency versus secrecy. Competition versus monopoly.

You'll hear from opponents that if you vote for this the sky is going to fall and the free world as we know it is going to come to an end. Don't look behind the curtain. Pay no attention to that man, because, God forbid, you ask to have access to your own hometown claim information. If you do, the sky will fall. This is going to turn into a North versus South and into an urban versus rural debate. You'll hear the wealthy suburban areas that are younger and healthier will get better deals elsewhere and leave the MEA Trust. Over a period of time the Trust will be left only with districts with older and sicker teachers. Rates will skyrocket and the Trust will fall apart. There will be winners and losers, pitting one district against another, one part of the state against the other. Forget that there is no evidence that demographics of teachers in various school districts are really that different. Forget that just for the moment. The argument does seem to make some sense. It does seem like a risk.

Do we have any other model to look at to see if that would actually happen? Would the sky really fall? Yes, we do have a model and we don't have to look any further than a couple hundred yards up from MEA to answer that question. Again, it's the Maine Municipal Office. Remember, that's the place where any town or city can go and get its claims data for its city employees and show around for a better rate. What's their experience? Well, the fact is they put together an excellent product, and series of products, and they rarely lose members. They give out their claims data to their members. The City of Augusta can shop anywhere they want with that claims data. Yet, the Maine Municipal Association continues to hold well over 90% of market share among its members. Why? Because MMA is not afraid of competition and they know that if they do a good job they can win. They are winning and they are transparent and they are

open to competition and everyone benefits. Do some towns pay more and some pay less? Yes, but that's the essence of the American system of competition. It's a powerful word and competition can lower prices for everyone. Will small districts be left twisting in the wind? No, because this law, L.D. 1326, specifically allows them, the small districts, to join together with other districts, and actually even with other municipalities, to get to their critical mass so that they will have the bargaining strength to negotiate a low rate. That's what cooperation and competition, not monopoly, is all about. Keep in mind that passage of this bill will not force anybody who is currently a member of the MMA Trust to look for insurance elsewhere, but it gives your SADs and your RSUs the local option to do so if they want to.

We beat up on towns and cities here recently. We're funding municipal revenue sharing at about 30% less than what our law calls for. Let's be honest with ourselves, we've solved some of our problems here by passing some of them down to our hometowns, putting increasing burdens on our local property taxes. For local school districts, health insurance costs can be 14%, 15%, or more of their total school budgets. Our school boards and our superintendents are frustrated. They are begging us to give them a chance to lower these health insurance costs. They are saying to us the obvious, that millions and millions and millions of local taxpayer money now goes to a closed monopoly with no transparency. If there are two principles which I suggest should be the prism for us to judge as we make public policy, it might be these; when we're talking about public dollars, we have the absolute right to see how those dollars are spent and access to our own information. Secondly, the competition, fair and open competition, is the American way; not a monopoly and concentration of power. Our health insurance costs are going up and up. They are eating up larger and larger parts of our school budgets. This is a bill that our school boards want, that our local towns want, and that we should want. Thank you, Mr. President.

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

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, this is not my area of expertise, so once again I had to educate myself and I'm still doing so. I actually do believe in competition. I don't like monopolies. The previous speaker just compared, from my perspective and I think from many other people's perspectives, apples and oranges. I want to explain to you why. Maine Municipal actually does end up, in essence, pitting communities against each other in the sense that when they allow that data some communities win and some don't. In other words, some are higher and some are lower, the costs. Also Maine Municipal doesn't cover the retirees. That's a huge difference.

The other thing is that we're talking about this pool of funds as if it's play money. That's not the case. That money is used to buy down rates while many have seen double digits, and we all know about that because we've seen the double digit increases in insurance rates. I want to share with you what the Maine Education Association Benefits Trust has done. Their rate increase from 2008 to 2009 was only 4%, from 2009 to 2010 was zero, 2010 to 2011 was 2%, and 2011 to 2012 was 6.5%. The reason why they've been able to do this is they've had the pool of funds to buy down these huge increases. The management of this particular trust has been very well done. It sounds just wonderful to open this up. Actually I thought maybe that was a

great thing. Upon further investigation, what my sense is, and what will probably happen, that you will have some communities, if they were to get individual data, that will win and some won't. The older communities that are more rural will certainly lose. The more densely populated ones that are younger won't. That's a very real thing. Of course, in addition to that, when you talk about municipalities versus 70,000 educators there is an issue of reliability and dependence. I don't think we should be playing roulette with these people's healthcare costs, especially given the fact that we have no idea what the result will be of this. That's a real concern of mine and the reason why I've heard from people on both sides of this issue. Right now we're in the process of doing something to educators which is significantly going to change and impact their cost of living and what we pay to them in this next budget. I think any more unpredictability is really not the direction we want to be going in right now.

We have a reinsurance pool built into L.D. 1333. This has essentially its own reinsurance pool, that's Benefits Trust. That is essentially what they do. They offset high healthcare costs with this pool, with this fund. I think that this is a mistake right now. I also just want to share with you side by side, at least with the monthly rate, from a comparison of what the Maine Education Benefits Trust monthly employee rate is versus the State of Maine monthly employee costs. It's \$538.97 for Maine Education Benefits Trust and \$272.54 for a State of Maine employee. That's a significant decrease in cost. It was not necessarily my intent to get up and speak in opposition to this, but I am very concerned about allowing this to go through and how this will, once again, upset the apple cart.

The other thing I wanted to mention was this notion that communities can't leave. They absolutely can leave. Nobody is holding them to stay in this plan at all. They will, Maine Education Benefits Trust, share data of their entire group. When you talk about a municipality breaking off it is different than the entire group. Why would you want to have people be cherry picked out from an entire group? I certainly would not. That's what could happen. The whole reason why they get these advantages is because they are a large group. In short, if we did go forward with this, if I were an insurance company what I would do is I would offer what is probably a sweetheart deal for maybe a couple of years and then just have the rates go up substantially after that. It undoes the Benefits Trust, which I don't think will advantage our educators in the long term at all. I would hope that you would consider especially the retirees piece, because I think that is a major difference between Maine Municipal and ME Benefits Trust. That's our older population in that group. I think this is a terrible mistake. I know it sounds really wonderful, but there are unintended consequences of moving forward with this bill and I hope that you would consider that. Thank you very much.

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

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, first, I'm not allowed to use props here, so I decided add to my noose and to put this on. I took it off originally. I was dared, by the way, to wear this before this esteemed Chamber. I took it off because I didn't want it to clash with the noose. I put it back on because I think it's really important as we begin to talk about the subject. It is not new. My first time here in the other Body, 13 years ago, this was up. It was brought forth

then, it's been for four years that I can think of, and one of the people was the former Representative and Senator Mayo. Let me talk a little bit. First, I would disagree with the good Senator from Kennebec, Senator Katz. The customers are not the municipalities of the MEA Trust. The customers are the teachers. In my 28 years, officially ended now, of teaching, I have had absolutely none of the rights that most people have in making their plans for their future. I'm not allowed to draw Social Security. I have my 40 quarters that I need and then some, so I'm not allowed to pick my retirement. In fact, my retirement is controlled by the retirement pension. You have, being the State of Maine and the Legislature, have changed that several times, none of them to my advantage. None of them to try to make sure that my family, after working and dedicating myself to the most important resource that Maine has, its young people, the people you want to keep here. Nobody really cared what happened at the end of 28 years, or at the end of 37 years, as it was with the teacher with which I celebrated Friday night. I don't even have the choice to pick insurance carriers. I'm told what to pick. Fortunately, that is the one thing that was good for us because the one thing that worked very well was my insurance. It was the one thing that allowed me to make it and to survive, my husband and I, through the years.

Let's talk about that. First of all, unlike your song that you heard, you can leave the MEA Benefits Trust. What you can't do is get back in it because they take all the teachers, those healthy 23 year old people coming out of college and the old 62 year old people waiting to leave or have left. They put them in one big group and then they find a premium for them. Now, when you ask to see what they have you're going to see all of the teachers that are in the plan in the state of Maine. Yes, the school system takes a risk. They take a risk that a school like mine, just the middle school, would not have four major cancers catastrophic in one year. None of the rates went up any more than the rest of the rates even though that was my school in one year. It truly keeps the rates down. We reinvest the money, that savings, back in so we can buy those rates down because not only do the rates affect the municipalities they also affect the teachers. Very few schools can you go to now and find out that your insurance is totally free. That was not true 28 years ago when I started there. We pay more and more and if the rates go up for insurance then our contract wages go down. Don't tell me that doesn't happen in the private world. Yes, it does. If you are getting a bigger fringe benefit package you're going to be off set by wages. You've frozen COLAs here. You've done everything. Yet you want teachers to come in. You want better qualified teachers. I have sat through 13 years of hearing the teachers bashed one way or another. It hurts after a while. You can leave. You can get yours. I heard the good Senator from Penobscot, Senator Schneider, say they will cherry pick. They will give you a sweetheart deal if you happen to be a school system, especially a small one and maybe 20 teachers. Remember, this is done as a whole group. All the teachers belong, not sorted out any other way. They go and they have a great experience record. MMA, or anybody else, goes to them and says, "We're going to insure you and look what we're going to save you." The next year, three of those cases of cancer. By the way, asbestos was used in schools. We know that. We have a larger rate of breast cancer among teachers than any other group going. Many people say it's asbestos. We can't prove it. Those three cases become catastrophic and guess what? Your municipality will be paying triple or quadruple the next time. If you don't think it's true,

Sanford is not insured by us. They left to get a better deal. They do not carry the MEA Benefits Trust. You don't have to be in it.

I think it's time, if you want smaller government, to let the teachers, a whole group of people, have some say in their future. Because we found a system that works and we're willing to put money into it, I don't know why you all want to get your hands on it. After a while, you talk about getting into people's pockets. I really think if you go back and you allow your little communities to do this, and to be judged on just the number of teachers in your community, it will change in the years, as your teachers get older. It will change. I guarantee you. I would go back to; what are you going to offer your teachers for retirement when they are done teaching? The Senator is correct. There is no retirement on the municipality side. Your retired teachers are going to leave their jobs and have no way to get insurance. Maybe they can do MaineCare. That is the truth. For some of you on the other side of the aisle, I see looking a little perplexed, I'd be happy to share this afterwards with you, about how it works. I've been there. I've lived it. I know it. At 62 I thought I'd have some choices in my life about retirement and about insurance and about Social Security. Every time I turn around I find out I don't. I'm told over and over again that I teach the most important resource Maine has, our young people, and yet I have no say and I have no future when I'm done. It's amazing. This is not a new idea. Every time money gets tight it becomes the way. Let's go after a system that works. Let's go after what the teachers have put together and they take care of their own, even after they retire. Thank you, Mr. President.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I have a few questions. I must say, I'm in the odd situation of agreeing with the Senator from York and the Senator from Penobscot. Maybe it's because we were on the committee together and she's changed my mind about certain things. That's really not the case. I'm a retired teacher, among other things. If I may, I'd like to direct a series of questions towards anyone who would care to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **SHERMAN:** Thank you Mr. President. I did hear a lawyer-like presentation from the Senator from Kennebec. I would certainly like to have him as my attorney if I wanted to go scot-free on some things. My question is; does he have any understanding, and he probably does, of what an insurance trust is all about, which is what the Maine Teacher's Association, or MEA, for me it's always MTA? Can I go down to the Maine Municipal Association and see the cost of the family plan and what's covered by the family plan? Can I go down to the Maine Municipal Association and look at the individual plan and what is covered by those plans? Does the reserve fund meet state standards, which is 25% reserve fund? That's what you are talking about when you're talking about the \$89 million. There is a minimum amount there too. I think it's about 15%. Is the reserve fund sufficient in the Maine Education Association piece? Can I see the family plan? Do you know what a insurance trust is? What does an individual plan look like? What's covered by that plan? The administrative fee that is dealt with for the Maine Municipal Association and the administrative fee that relates to

the Maine Education Association. I'll sit down and let the good Senator, attorney, work his magic.

THE PRESIDENT: The Senator from Aroostook is reminded that one directs a question through the Chair to anyone who may wish to respond. The Senator from Aroostook, Senator Sherman poses a series of questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. In response to the question from the good former teacher from Aroostook, Senator Sherman, it's my understanding that the benefit structure of any policy sold by the Maine Municipal Association is absolutely available to any member municipality that may wish to ask. I don't know whether the administrative costs are available or not. There is nothing in this bill which would require MTA Health Trust or anyone else to provide administrative costs. That information was provided by them voluntarily. As to how much money the MEA should or should not keep in order to maintain its solvency, I don't know that. I'm not an actuary. I do know this, Senator, in 2006 the reserve fund was \$57 million. It then rose to \$60 million. It then rose to \$70 million, then to \$80 million, and then to \$87 million. I can't help but keep my eye on what I think is the ball here. That money didn't come out of thin air. That money came from property tax payers all over the state. Since when did competition become a dirty word? We have heard, Mr. President, that the sky will fall if this bill passes. That's why we should condone the status quo of secrecy and monopoly, even though the Maine Municipal Association doesn't do it and they keep almost all of their market share. There is nothing about this bill that is anti-teacher. Quite the contrary. What it is trying to do is to help our communities keep their health insurance costs under control so they can have money to be able to pay those very same teachers. Thank you, Mr. President.

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

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, it's difficult to throw ideas around with the good Senator from Kennebec, but I will because I think he has put out a couple of frames that I think could be conversation starters or enders, but I don't think they are really the part of the conversation and that we should be keeping our eye on the ball, as he just used. He introduced secrecy or transparency. He introduced competition versus monopoly. I'd like to introduce the frame of results, the bottom line. Let's look at the bottom line of what the MEA Trust has done for its members from Kittery to Fort Kent. Let's look at the rates that they have bought down over the past four years. How did they buy them down? We've already heard what the rates were, but how did they do that? Well, they paid \$12 million in 2008 - 2009, \$14 million in 2009 - 2010, \$17 million in 2010 - 2011, and will be putting in \$19 million in 2011 - 2012. This stabilization fund allows them to get that performance. Every business looks at their bottom line. Why are we treating the MEA Trust any differently? Their bottom line is that they are creating stable prices throughout the state of Maine. They are giving their group, their large group, the ability, no matter where they live, to get good rates. What is wrong with that? I see nothing wrong with that. Someone has mentioned today that any school district can get out whenever they want. In fact, some

school districts have. They went with New York Life and others. What happened after they went with New York Life and others? They very quickly retreated. They went back into the MEA Trust. Why? Because of performance. Performance and the bottom line.

Let's talk about transparency. I believe this entire Legislature has been given almost the entire book of the MEA financial information. The MEA Trust has nothing to hide and they have been fully transparent with all of us. All session long there's been a lot of angst about the now \$69 million in the rate stabilization fund. Well, it's necessary for them to have it so they can buy down the rates. I've talked to you about what they've done; \$12 million, \$14 million, \$17 million, \$19 million. This is money that is not just sitting in some slush fund. This money is being used to buy down rates so they have stable rates no matter where you live. What is wrong with looking at the Trust's bottom line? Their performance. Nothing. That is the question I think this Body should be looking at, not about monopolies and not about transparency and not about competition. Let's look at their bottom line. That's the frame that I think we should be looking at.

I guess I'll end by saying businesses come and go. I think the MEA Trust has been here for a long time and will continue to stay here if we allow them to do what they've done so well for so many years. Why would we want to break that apart? Why would we want to allow groups of schools to just get all the information they need, for insurance companies to come in and throw teaser rates at those communities, keep them there for a couple of years, and, all of a sudden, one or two or some of their teachers get into a lot of health problems and their rates skyrocket. Then what are your taxpayers going to do? What are your local communities going to do then? The MEA Trust serves an important function. Their performance I would throw out with any performance in the state of Maine. Throw any other trust out there and they will go head to head with them because that is competition. The competition is the bottom line and they have delivered. I urge you all to defeat the pending motion. Thank you, Mr. President.

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

Senator **SNOWE-MELLO:** Thank you Mr. President. Honorable members of the Senate, I stand here today in full support of the passage of L.D. 1326. L.D. 1326 is about providing health insurance options to school districts. Right now school districts pay up to 14% of their operating budgets for health insurance. School boards cannot negotiate down that price because the MEA Benefits Trust and its insurer, Anthem, have a lock on 98% of the school business of Maine. I felt that it was very important for you to know that. This bill is about opening up competition in a \$400 million school health insurance market that is currently controlled by the MEA Benefits Trust. If we open up that business school districts can at least compare plans to bring down insurance rates. Nobody else can bid on that business right now because the MEA Trust won't even release claims data. I think that's already been said, but it's a good thing to repeat. They won't release the contract they have with Anthem even though the money that pays for school health insurance is taxpayer money. I think that's very important for us to understand here, while we're listening to the debate. This is taxpayer money. In the private sector claims data is released so businesses can get competitive bids. The Maine Municipal Association, which

insures cities and towns, releases claim data. Why won't the MEA Trust? Are they trying to protect the assets that the good Senator from Kennebec, Senator Katz, mentioned before? Early this year we passed some landmark legislation to open up competition of the private insurance market. We heard the same argument then as we're hearing now, that this legislation will hurt rural Maine. People are looking for lower rates. They are not looking for predictability. They are just not. They want lower rates. I'll tell you what's hurting rural Maine and every other school district in this state. It's escalating health insurance costs that are eating up close to 14% of school operating budgets. If we don't do something now nothing will change and rates will continue to go higher. In fact, despite having reserve funds of \$87 million, the MEA Benefit Trust is raising rates on school districts this coming year by 6.5%. Is this the right direction that we need to go? I think not. I think our taxpayers at home think not also. Bringing down costs will help us all. Remember, it allows it to happen, it doesn't mandate it. I say yes to our local school boards and yes to helping out the taxpayers. With this legislation, we have the opportunity to let them look to better solutions and more affordable health insurance policies for their employees. It may not be a new idea, but it is an idea that I believe is ready to come to fruition. Please remember that \$300 million a year in taxpayer money is spent on health insurance for teachers and other school staff. Health insurance consumes, like I said, 14% of school district budgets. Two school districts estimate savings of between \$300,000 and \$400,000 if they can insure with someone other than MEA Trust. The MEA Teachers Union received \$901,796 from the MEA Trust in 2010 and \$516,000 in 2009 for administrative service fees. That's a 74% increase in one year. For what? Teachers will not be forced out of the MEA Trust because in L.D. 1326 says, "If the Trust is named in the contract it will have to be negotiated." I say stand with those of us who strongly support L.D. 1326. We have to do something and I think the time is now. 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, I won't be long. We started this conversation with a thought of the Eagles and Hotel California. I do remember that song when I was a younger person. I liked it. I never really understood that line; that you can check out anytime you want but you could never leave. I did like it, but as I got older I kind of switched my genre and now I'm more on stuff like Ozzie Osborne. I think we're talking about Crazy Train here. There is actually a line in there that talks about, "Crazy, I just cannot bear, I'm living with something that just isn't fair." I think it is kind of what is happening in this regard. From what I understand, if you're the district, if you are the school board members, you can go out and negotiate with any insurance company currently. The good Senator from York, Senator Sullivan, being a teacher, did a real great job, I think, on talking about all the inequities and all the things that are wrong and the problems with teachers. The best thing that teachers have going for them is their health insurance benefits plan. I can't fault them for that. I can't be upset with them for that. They don't get paid well. They are not treated very well, as far as what type of pay they get. For the most part, they know that they are going to have decent health insurance. Honestly, most of the people in my area really strive to get jobs in the school district. Many times it's not for the pay, it's for the

health insurance benefits. I have a number of people where the wife is working at a very menial paying job, but she gets health insurance at the school district and it's a lot cheaper than they could buy on their own. I think it's working quite well in the fact that it's overall cheaper than anyone can get health insurance for. In the rare instance that it isn't cheaper, that school district can go ahead and go out and negotiate for one already. They can do that. I'm not sure why the MEA would have to go ahead and do all the work it would take to do the experience ratings for each district and turn around and hand that to a competitor. What other business does that and says, "Here, I'll show you what my actual costs are and you go ahead and cut my throat by getting a cheaper rate." I don't see that working anywhere else. You'd have to spend what money you are getting to do all the experience rating and then turn around and hand it to a competitor. They give you the overall experience rating. The people can go out and negotiate for a cheaper rate already. All this bill does is make them work even harder at trying to, what I would say and like it's already been said, cherry pick the school districts that have the best experience ratings. It's only experience rating for that time. Nothing is said about a couple years later, like it's already been mentioned, when a couple of people get cancer or something like that and it blows the rating through the roof. Then what are they going to do? They are going to come crawling back to the MEA to get back in that Trust Fund, which is only going to make it even worse for those that are in there. I really honestly don't see a problem. With health insurance we're talking about getting into a big group so that you can get a better rating. That's exactly what this Trust Fund has done. It's lowered the rating, lowered the cost. I know that health insurance costs for our school districts are high. It's high for everyone. We've already talked about it in here a number of times. We have a problem. I would say that one place that, it's not cheap, is cheaper in the school districts. I think they've done a good job managing it and I think they've kept the costs as low as possible. I'm not in favor of blowing that up. I'm not in favor of school districts being cherry picked and then being able to come back in later on. I'm not in favor of this all going to pieces for teachers.

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

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I truly won't prolong this. If you're talking songs here, I go back to Blue Suede Shoes, some of you may remember Edie Arnold many years ago and it's probably not much help in this quest. I do like poetry and we all know Robert Frost's line. He wrote, "Two roads diverged in a yellow wood, and looked down one as far as I could to where it bent in the undergrowth." Then, of course, he took the wrong road because he said he was telling this story with a sigh seven years hence because that road had made all the difference. I do have a question in there, if I may, to anyone.

THE PRESIDENT: The Senator may pose his question.

Senator **SHERMAN:** Thank you Mr. President. The question is, and it goes back to the Benefits Trust, I heard, I don't know who it was because I was talking to my seatmate about squirrels, I think, the fact that the rate stabilization fund had gone up tremendously. I didn't catch the date, two thousand and something. If the rates

are going up at 6%, you have to keep that stabilization fund trailing up there, so it is entirely logical, in my mind anyways, that the rate stabilization fund would have to increase because there are two parameters here. One is that you've got to keep 15% in the stabilization fund. Someone in the back row here, about an hour and a half ago, said some of these funds are supposed to keep 25% and that is the number that I don't know is true or false. If anyone would care to tell me, with inflation, if the rates have gone up 6%. It's been four years. That's a 24% increase, in my mind, in the rate stabilization fund.

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. I can tell you that between the years 2006 and 2010 the fund went from \$57 million to \$87 million. I don't have my calculator, but I sense that is much more than inflation. Lastly, I'd say to anybody who may still be undecided on this issue, I just want to say that I tried to use a quote from a good, wholesome American band. The Senator from Aroostook, Mr. President, has used a quote from Ozzie Osborne, who once bit off the head of a live chicken on stage. We can make up our own minds.

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

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm not sure, but I believe it was a dove. I'm not going to hold that against it. It was a good song anyways.

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

Senator **TRAHAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I feel a dying need to stand for those that are still undecided and just tell you that, "I'm stuck in the middle with you." In all seriousness, this has been an issue that has troubled me greatly as to the proper way to vote on this issue. I have really come to a conclusion, in my mind, that it comes to two separate issues. The issue of releasing the ratings and the issue of how the administration is spending money from the Trust. I believe this bill is about 6 months premature. I'm going to offer up a different solution to this problem. I believe that OPEGA should do a rapid response review of the structure of the Trust and how the administration has spent the money. I think if you did that, as a matter of fact, I'll go on the record right now and say that if you did that and next year, if it is shown that districts are not going to be put in significant harm and that administration was spending improperly, I would support this bill. At this point, I have said all session long that I was going to be against this bill. As of yesterday, after hearing concerns around transparency, I move to the middle and was undecided. I'm going to tell you what my intentions are. I'm going to vote against this bill and then I'm going to rise and move this bill back to committee in hopes that we can do a rapid response review, take a look at this program, and, with genuine intent, if there is a problem I will support this bill when we come back in January. I know that disappoints some of you and makes some of you happy. It doesn't make me feel very

good at all, but sometimes we have to make tough decisions and I will make one today. Thank you.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call Ordered)

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law"
H.P. 400 L.D. 507

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-573)** (11 members)

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

Tabled - June 8, 2011, by Senator **ALFOND** of Cumberland

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

(In House, June 8, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-573).**)

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

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

READ ONCE.

Committee Amendment "A" (H-573) **READ** and **ADOPTED**, in concurrence.

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

Off Record Remarks

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later (6/9/11) Assigned matter:

SENATE REPORTS - from the Committee on **ENVIRONMENT AND NATURAL RESOURCES** on Resolve To Authorize the State To Purchase a Landfill in the Town of East Millinocket
S.P. 500 L.D. 1567

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-282)** (11 members)

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

Tabled - June 9, 2011 by Senator **SAVIELLO** of Franklin

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

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

On motion by Senator **SAVIELLO** of Franklin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-282) **READ**.

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-292) to Committee Amendment "A" (S-282) **READ**.

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

Senate at Ease.

Senate called to order by the President.

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

On motion by Senator **SAVIELLO** of Franklin, Senate Amendment "A" (S-292) to Committee Amendment "A" (S-282) **ADOPTED**.

Committee Amendment "A" (S-282) as Amended by Senate Amendment "A" (S-292) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-282) AS AMENDED BY SENATE AMENDMENT "A" (S-292)**, thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (6/9/11) Assigned matter:

Bill "An Act Regarding Labor Contracts for Public Works Projects"
S.P. 378 L.D. 1257

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

Pending - motion by Senator **THOMAS** of Somerset to **ADOPT** Senate Amendment "A" (S-269) to Committee Amendment "A" (S-254)

(In Senate, June 9, 2011, **READ A SECOND TIME**.)

Senator **THOMAS** of Somerset requested and received leave of the Senate to withdraw his motion to **ADOPT** Senate Amendment "A" (S-269) to Committee Amendment "A" (S-254).

On motion by same Senator, Senate Amendment "B" (S-281) to Committee Amendment "A" (S-254) **READ**.

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

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, in response to some concerns raised about this bill, I worked with the Attorney General to draft this amendment. This is what it does. It narrows the scope of the bill to three specific agencies; the Maine Department of Transportation, the Maine Turnpike Authority, and the Bureau of General Services. It narrows the focus of the bill to a four year period with a sunset provision so that we can measure the success of the policy. It clarifies the fact that nothing in this law will prohibit contractors from voluntarily entering into project labor agreements. It allows an exemption if the head of the department determines that special circumstances require a project labor agreement if it is in the best economic interest of the project. It eliminates any ambiguous language about the legal cause of actions for parties who are harmed through wrongful implementation of the policy. 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, I would like to pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **JACKSON:** Thank you Mr. President. I'm still concerned that the Attorney General was asked for an opinion on this and I don't see any written formal opinion about the constitutionality of this. Is there anyone who would know the answer?

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

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Thomas to Adopt Senate Amendment "B" (S-281) to Committee Amendment "A" (S-254). 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 (#238)

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

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

EXCUSED: Senator: GOODALL

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **THOMAS** of Somerset Senate Amendment "B" (S-281) to Committee Amendment "A" (S-254) **ADOPTED**.

Committee Amendment "A" (S-254) as Amended by Senate Amendment "B" (S-281) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-254) AS AMENDED BY SENATE AMENDMENT "B" (S-281)** thereto.

Ordered sent down forthwith for concurrence.

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

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act Regarding the Scope of Services That May Be Provided by Pharmacies Owned by Hospitals"

S.P. 434 L.D. 1406
(C "A" S-161)

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-161)** (7 members)

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

Tabled - June 10, 2011, by Senator **McCORMICK** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, May 26, 2011, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-161)**.)

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

On motion by Senator **FARNHAM** of Penobscot, the Senate **RECEDED** and **CONCURRED**.

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

Resolve, Directing the Maine Center for Disease Control and Prevention To Conduct a Review of Wood Smoke Laws
H.P. 430 L.D. 547

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

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-407)**, in concurrence.

(In Senate, June 1, 2011, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-407)**, in concurrence.)

(In House, June 9, 2011, **FINALLY PASSED**.)

(In Senate, June 10, 2011, on motion by Senator **CRAVEN** of Androscoggin, **RULES SUSPENDED. RECONSIDERED ADOPTION** of Committee Amendment "A" (H-407), in concurrence.)

Committee Amendment "A" (H-407) **ADOPTED**, in concurrence.

On motion by Senator **CRAVEN** of Androscoggin, Senate Amendment "A" (S-296) **READ**.

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

Senator **CRAVEN:** Thank you Mr. President. This amendment strips off the emergency preamble. Thank you very much.

On motion by Senator **CRAVEN** of Androscoggin, Senate Amendment "A" (S-296) **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-407) AND SENATE AMENDMENT "A" (S-296), in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

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

Bill "An Act To Promote Rail Competition in Northern Maine"
(EMERGENCY)

H.P. 1133 L.D. 1544

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

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and ordered printed)

(In House, June 10, 2011, Bill and accompanying papers **INDEFINITELY POSTPONED.**)

On motion by Senator **COLLINS** of York, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act Regarding the Recognition of Corporate Entities for Tax Purposes"

H.P. 432 L.D. 549

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-335)** (7 members)

Minority - **Ought Not to Pass** (4 members)

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

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, June 10, 2011, Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED.**)

(In Senate, June 10, 2011, Reports **READ.**)

On motion by Senator **TRAHAN** of Lincoln, Bill and accompanying papers **INDEFINITELY POSTPONED**, in concurrence.

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

SENATE REPORTS - from the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Protect Young Children from Sex Offenses"

S.P. 357 L.D. 1182

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-295)** (4 members)

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

Pending - motion by Senator **MASON** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

(In Senate, June 10, 2011, Reports **READ.**)

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

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

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand tonight in opposition to this motion, not because I think that people that offend our youth or anybody else should not be prosecuted. I certainly think they should be. I think that the Committee on Criminal Justice and Public Safety, over the last several sessions, has consistently and repeatedly raised the sentences appropriately. I believe that this bill is unnecessary because it is going way further than judges or prosecuting attorneys have asked for. As a matter of fact, they haven't asked for us to do this. This bill has been brought in front of us with all good intentions in the world, but note the sentencing increases that we have given over the last few years and note that this bill really comes in three different sections and addresses three different parts of unlawful sexual contact towards a child. A judge can now sentence somebody to 10 years or 8 years for touching a child. Touching, not penetration because penetration will get you 30 years. The judge doesn't seem to think that he needs to go to 30 years. The prosecuting attorneys certainly don't. We think that sentencing is appropriate. When we look further down this bill, and we look at the different categories of this bill, we don't have our prosecuting attorneys who, let's remember, are elected officials, who are trying these cases and are bringing the charges and getting what they feel is the appropriate sentences.

Here, in Kennebec County, over the last couple of years we have doubled and tripled the sentences what judges were handing out. The Committee on Criminal Justice and Public Safety has never taken these charges lightly. I think that maybe in our distant past, when we're looking at 90% of sex offenses being committed by relatives or close family friends, it was another time and another age and the State was in another place. Certainly in the last 10 years we have elevated these crimes substantially. Where there might have been a 1 year sentence, it's now a 5 year sentence. Where it might have been a 2 or 3 year sentence, it is a 10 year sentence. Some of these crimes already being a Class A, most all of them are a Class B, depending on the circumstances they can be elevated. When you are looking at a Class C, that's 5 years in prison. The judges don't want this, and nor do the prosecuting attorneys, and I look at the prosecuting attorneys because they are elected officials and are representing bigger districts than we do. They are very serious in this state to give out strong and stiff sentences for these crimes. When I talked to the prosecuting attorneys and the people that are responsible for bringing these charges, they tell me they are really not in favor of them. I have to look at that.

It's easy to be tough on crime. We've all proven that. Everyone in this Body has proven that they can be tough on crime. The committee has been tough and we have stiffened up the sentences. There isn't a sentence in here that we haven't increased in this class over the years. We think we have a good

balance. Where it's a Class C crime will get you 5 years in jail. We think that's appropriate. Where it's a Class B crime or a Class A crime, that can get you 30 years in jail. That's for the more egregious, the more intimate, charges. We think that's appropriate. This bill we don't see as necessary. We don't think that this bill is going to bring us more justice, more trials. We don't see that this is going to bring more charges. We just think that over the years we've tried to strike that balance between justice and punishment. The committee overwhelmingly supported the Majority Report, especially by the committee members that have been on the committee for years and have been dealing with this and the committee members that have been involved in working through these issues for a period of years. I know today we're going to hear some pretty probably vivid debate. I think that we're going to hear some antidotal debate, but the reality, people, Senators, and Mr. President, is that we're doing it right and nobody is saying we're doing it wrong. The judges aren't. The prosecuting attorneys, who are the most responsible for this because judges judge but prosecutors have to get convictions, aren't. Legislators make the laws, the judges do the sentencing, but the prosecutors have to go out and get elected to represent their people, much bigger numbers than we do, and are held more accountable, or held equally accountable, to getting people convicted, off the streets, and into jail with appropriate sentences. I think attorneys in this room might agree with me. Over the years we have tried to strike that balance. Mr. President, I might have to stand up and respond later, but right now, in a calm manner and not as passionate as sometimes, but just as passionate about this issue as I ever am but with a bow tie on, I'm trying to be reasonable and trying to explain to people that this is just not necessary. Thank you very much, ladies and gentlemen.

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

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I will be brief. I'd like to start off quickly by saying that good Senator from Cumberland, Senator Gerzofsky, and others who voted against this feel just as passionate as I do about trying to stop crimes against kids, especially the sexual offenses and predators that roam and are looking for young children. That we agree on. I would say, though, that one of the problems we have to deal with, one of the most egregious problems we have to deal with, is those predators, those sexual offenders, who focus in, not just under 12, on under 2. You only need to go to the computer crime unit and look at some of the cases that they are dealing with. When it gets down to 2 months and 3 months and 4 months old babies, to me, we need to raise that penalty to stop that from happening or at least discourage that from happening or when it does happen to keep these people off the streets. It's most terrible of the terrible when we get down to children. Current law, any child under 12, gross sexual assault, unlawful sexual contact, and sexual exploitation is a Class B crime. This bill, with a sexual misconduct, is going to raise that from a Class C to a Class B. Unlawful sexual contact with a child under 12, if the actor, the violator, is at least 3 years older, it will go to a Class A. I don't think that this is unreasonable. I think these types of people who do focus on these young children, they may be family members, and 90% of them are friends of the family. It doesn't make any difference to me who they are. I think we need to make those

offences and those penalties stronger. That's the reason for this bill. Thank you, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, a 5 year sentence with good time quickly turns to less than 3. Every time a prisoner walks through the door they are entitled to getting a certain amount of good time off, and it's usually about one-third. A 10 year sentence turns into about 7. Sentences for victims are lifetime. If you've ever held a child that has nightmares every night because they were sexually abused, if you've ever read the description of a 3 year old being tired up with a Boy Scout belt in order for them to be molested, if you've ever heard a young girl being told, "It's okay because I saw it in the pictures". When you deal with a teenager who's promiscuous and cuts herself and hates herself because she thinks it's her fault. When you find family members who find out that they couldn't stop it but they knew about it. All those people serve life sentences. I don't have a problem, and you shouldn't have a problem, with taking a predator and making sure that for a defined amount of time they are not able to access those children. A victim serves a lifetime sentence. Sometimes it's a not very long sentence. When you are that hurt you commit suicide. When you are that hurt you drink your way into a bottle and you stay there. When you are that hurt you do drugs. I don't understand how we can weigh the life sentence against a longer sentence for someone who would dare, dare, lay hands on an infant, a toddler, a preschooler, a first grader, a third grader, girls and boys. Helpless, defenseless, and just hoping that someday somebody will notice what has happened and make it stop. Then when it stops, to know that you won't run into that person again for a very, very long time. I urge you to accept the Minority Ought to Pass Report. Thank you, Mr. President.

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

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I just have a question, Mr. President, to pose through the Chair to anyone who may answer.

THE PRESIDENT: The Senator may pose his question.

Senator **KATZ:** Thank you Mr. President. I was not at the hearing on this bill and I wonder if any district attorneys testified and, if so, what their view was? I also wonder if there were any representatives from the victim advocacy community and, if so, how they weighed in on this bill. Thank you.

THE PRESIDENT: The Senator from Kennebec, Senator Katz poses questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Mr. President. I would respond to that. There were no district attorneys supporting this bill. There were no advocacy groups supporting this bill. There was no testimony whatsoever from the legal community supporting this bill. That's why the overwhelming majority of this committee voted against this bill. When I talked to Everett Fowle

or the DAs they assured me that the sentencing is appropriate, that they are not even reaching the maximum limit to that sentencing. They think that what we've done in the past has been appropriate. They believe this is. One thing I would like to add, Mr. President, if I might is that when I look at this bill and I look at my book, the Maine Criminal Statutes, which I look at often, and I look at all the classifications that we are talking about here, absolutely 100% of those that deal with penetration, 100% of those that deal with children, be it penetrated or children being abused as tools, children being used as objects, are Class A crimes and Class B crimes. Mostly Class A. If you penetrate a kid in this state you're going to go to jail and you are going to spend the rest of your life there. If you touch somebody in the genitals, and remember that we added breasts to genitals not too many years ago, that's what we're talking about. Today you'll go to jail for 10 years for that. Let's not mistake what we're talking about. We're not talking about baby rape. That will get you life. We're not talking about those sorts of crimes, as disgusting as they are. We will put you in jail and you will spend your life there, or the greatest majority of it, depending on how young you are when you go. Very few ever return. My committee takes this crime, this set of crimes, this whole book of crimes, very seriously. The longer you've been on that committee the more you hate this. The more you really, really hate what people do to people. We've made sure that we punish people that don't belong in our society. We punish people who try to take advantage of our youth. We put them places where they don't want to go. There are people in those places that don't want to see them. We take it very seriously. Nobody in this Chamber should think that we condone any action against our children, because we don't. Not a member on that committee. The more experienced you are the more you hate it. The more you hate it the more you try to be appropriate, to get the appropriate sentences and the appropriate cases brought in front of our courts. We don't want people to think they can't bring cases. We want them to bring cases. We show every year that we are doing more and more about it. Thank you, ladies and gentlemen.

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

Senator **MASON:** Thank you Mr. President. Men and women of the Senate, when I took over the chairmanship of the Criminal Justice and Public Safety Committee I was told by a lot of people that my eyes would be opened. I can tell you that they were. As the Senator from Cumberland, Senator Diamond, said, all you need to do is take a trip to the computer crime lab and you can truly see how horrific and how vile these people are that commit these crimes. These horrendous acts on zero to 12 year olds. Let me repeat that, zero to 12 year old. That's what these people at the computer crime labs are dealing with. We hear a lot in this Legislature about, "If it ain't broke, don't fix it." Another thing you learn in Criminal Justice is that you hear from a lot of the same advocacy groups a lot and they give you really useful information. A lot of these advocacy groups, especially the sexual assault advocacy groups, point out that in a lot of their studies that 90% of victims say that their offender was someone that they knew very well. That's what this bill intends to target. It seems like there is something very broken about that stat. Something that we need to fix. Mr. President, I would suggest that the level isn't high enough. I would agree with the Senator from Penobscot and the Senator from Cumberland, we do need this bill. I'm not going

to go any further because I think the other two speakers that we in favor of this bill did a lot better job than I can. Thank you for the time, Mr. President.

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

Senator **PLOWMAN:** Thank you Mr. President. Men and women of the Senate, the previous speaker went to great lengths to describe that penetration is the point where we get tough, really tough. Have you ever seen a little girl who wasn't penetrated but was rubbed raw on her genitalia by somebody who knows enough? These predators know enough to skirt the behavior that will get them lengthy sentences. There is a lot that happens that doesn't involve penetration, but there is a lot of damage that is caused by the simple act of fondling and molesting, that's the prim and proper word for just touching genitalia. This is not a dainty little thing that happens. It's not romantic. It's not sweet. It's not gentle. It's not just a brush. It's not inadvertent. It's planned. It's power. It can be as rough as you can imagine. Frightening. Humiliating. All of those things, and that's without me even getting into what you would see described in the photos and in the reports. These are children who are used for sexual purposes. Sexual purposes that they want nothing to do with, that they don't understand, and they bear the brunt of. This is not a little girl sitting on Grandpa's knee and happens to pat her a little too hard on the bottom. This is a sexual assault. Shame on the people who did not show up to speak for 3 year olds. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Mason to Accept the Minority 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 (#239)

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

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, GERZOFKY, HILL, HOBBS, KATZ, WOODBURY

EXCUSED: Senator: GOODALL

26 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MASON** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-295) **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.

Senate at Ease.

Senate called to order by the President.

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

Bill "An Act Concerning Solid Waste Facility Citizen Advisory Committees"

H.P. 522 L.D. 693
(H "A" H-500 to C "A" H-444)

Tabled - June 13, 2011, by Senator **SAVIELLO** of Franklin

Pending - **FURTHER CONSIDERATION**

(In House, June 10, 2011, Bill and accompanying papers **INDEFINITELY POSTPONED**.)

(In Senate, June 10, 2011, **PASSED TO BE ENACTED**, in **NON-CONCURRENCE**.)

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

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

On further motion by same Senator, Bill and accompanying papers **COMMITTED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES**, 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

Ought to Pass As Amended

Senator **LANGLEY** for the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Encourage Transparency in the Department of Education"

S.P. 158 L.D. 566

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-300)**.

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

READ ONCE.

Committee Amendment "A" (S-300) **READ** and **ADOPTED**.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

THE PRESIDENT: To reiterate an announcement made earlier off the record, the anticipated schedule for consideration of the biennial budget is as follows: it is our hope to have it on-line by sometime tonight and that a hard copy will be available for Senators first thing tomorrow morning. If those two things happen, the deadline for amendments will be at noon tomorrow. It is anticipated that the other chamber will begin consideration of the biennial budget either tomorrow night or Wednesday morning and that the Appropriations Committee will begin to run the table on Wednesday night.

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

Senator **RECTOR** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

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

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.

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

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Tuesday, June 14, 2011, at 11:00 in the morning.