

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

House of Representatives
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
 SECOND REGULAR SESSION
 39th Legislative Day
 Tuesday, April 12, 1994

The House met according to adjournment and was called to order by the Speaker.

Prayer by Honorable James G. Skoglund, St. George.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The following Communication:

COMMITTEE ON AGING, RETIREMENT AND VETERANS
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Aging, Retirement and Veterans during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		20
Unanimous reports	16	
Ought to Pass	1	
Ought to Pass as Amended	7	
Ought Not to Pass	8	
Divided reports		4

Respectfully submitted,

S/Bonnie Titcomb S/John Jalbert
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON AGRICULTURE
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Agriculture during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		16
Unanimous reports		13
Ought to Pass	1	
Ought to Pass as Amended	9	
Ought Not to Pass	3	
Divided reports		3

Respectfully submitted,

S/Judy A. Paradis S/Robert J. Tardy
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 8, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Appropriations and Financial Affairs during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		26
Unanimous reports		17
Ought to Pass	0	
Ought to Pass as Amended	7	
Ought Not to Pass	10	
Divided reports		7
Pursuant to Joint Order		2

Respectfully submitted,

S/Michael D. Pearson S/Lorraine N. Chonko
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON AUDIT AND PROGRAM REVIEW
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 11, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Audit and Program Review during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		8
Unanimous reports		6
Ought to Pass	2	
Ought to Pass as Amended	2	
Ought Not to Pass	2	
Divided reports		0
Pursuant to Statute		2

Respectfully submitted,

S/John J. Cleveland S/Phyllis R. Erwin
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON BANKING AND INSURANCE
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Banking and Insurance during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		44
Unanimous reports		32
Ought to Pass	2	
Ought to Pass as Amended	23	
Ought Not to Pass	7	
Divided reports		10
Pursuant to Joint Order		2

Respectfully submitted,

S/Dale McCormick S/Edward L. Pineau
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON BUSINESS LEGISLATION
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Business Legislation during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		21
Unanimous reports		17
Ought to Pass	0	
Ought to Pass as Amended	8	
Ought Not to Pass	8	
Rereferred	1	
Divided reports		4

Respectfully submitted,

S/Alton E. Cianchette S/Annette M. Hoglund
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

JOINT SELECT COMMITTEE ON CORRECTIONS
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Corrections during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		12
Unanimous reports		12

LEGISLATIVE RECORD - HOUSE, APRIL 12, 1994

Ought to Pass	0	
Ought to Pass as Amended	9	
Ought Not to Pass	3	
Divided reports		0

Respectfully submitted,

S/Beverly Miner Bustin Senate Chair	S/Anne M. Larrivee House Chair
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Was read and ordered placed on file.

The following Communication:

COMMITTEE ON ENERGY AND NATURAL RESOURCES
ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 8, 1994

The Honorable Dennis L. Dutremble
President of the Senate
The Honorable Dan A. Gwadosky
Speaker of the House
116th Maine Legislature
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Energy and Natural Resources during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		49
Unanimous reports		43
Ought to Pass	2	
Ought to Pass as Amended	26	
Ought Not to Pass	14	
Rereferred	1	
Divided reports		4
Pursuant to Joint Order		2

Respectfully submitted,

S/Mark W. Lawrence Senate Chair	S/John L. Martin House Chair
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Was read and ordered placed on file.

The following Communication:

COMMITTEE ON FISHERIES AND WILDLIFE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
President of the Senate
The Honorable Dan A. Gwadosky
Speaker of the House
116th Maine Legislature
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Fisheries and Wildlife during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		10
Unanimous reports		8
Ought to Pass	0	
Ought to Pass as Amended	5	
Ought Not to Pass	3	
Divided reports		2

Respectfully submitted,

S/M. Ida Luther Senate Chair	S/Dorothy A. Rotondi House Chair
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Was read and ordered placed on file.

The following Communication:

COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT
ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 8, 1994

The Honorable Dennis L. Dutremble
President of the Senate
The Honorable Dan A. Gwadosky
Speaker of the House
116th Maine Legislature
Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Housing and Economic Development during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		17
Unanimous reports		16
Ought to Pass	1	
Ought to Pass as Amended	10	
Ought Not to Pass	5	
Divided reports		0
Pursuant to Joint Order		1

Respectfully submitted,

S/Rochelle M. Pingree Senate Chair	S/Rita B. Melendy House Chair
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Was read and ordered placed on file.

The following Communication:

COMMITTEE ON HUMAN RESOURCES
ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 8, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Human Resources during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		43
Unanimous reports		39
Ought to Pass	2	
Ought to Pass as Amended	23	
Ought Not to Pass	14	
Divided reports		4

Respectfully submitted,

S/Judy A. Paradis S/Sharon Anglin Treat
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON JUDICIARY
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 7, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Judiciary during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		73
Unanimous reports		58
Ought to Pass	0	
Ought to Pass as Amended	25	
Ought Not to Pass	32	
Rereferred	1	
Divided reports		12
Pursuant to Joint Order		3

Respectfully submitted,

S/Gerard P. Conley S/Constance D. Cote
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON LABOR
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Labor during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		11
Unanimous reports		7
Ought to Pass	0	
Ought to Pass as Amended	3	
Ought Not to Pass	4	
Divided reports		4

Respectfully submitted,

S/James R. Handy S/Richard P. Ruhlin
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON LEGAL AFFAIRS
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Legal Affairs during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills		39
Unanimous reports		28
Ought to Pass	2	
Ought to Pass as Amended	15	

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Ought Not to Pass 11
 Divided reports 10
 Pursuant to Joint Order 1

Respectfully submitted,

S/Richard J. Carey S/Beverly C. Daggett
 Senate Chair House Chair

Was read and ordered placed on file.

was placed before the Committee on Rules during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills 1
 Unanimous reports 1
 Ought to Pass 0
 Ought to Pass as Amended 1
 Ought Not to Pass 0
 Divided reports 0

The following Communication:

COMMITTEE ON MARINE RESOURCES
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on Marine Resources during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills 19
 Unanimous reports 14
 Ought to Pass 2
 Ought to Pass as Amended 9
 Ought Not to Pass 3
 Divided reports 4
 Pursuant to Joint Order 1

Respectfully submitted,

S/Harry L. Vose S/James Mitchell
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

JOINT SELECT COMMITTEE ON RULES
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which

Respectfully submitted,

S/Beverly Miner Bustin S/Charlene B. Rydell
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON STATE AND LOCAL GOVERNMENT
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 8, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which was placed before the Committee on State and Local Government during the Second Regular Session of the 116th Legislature has been completed. The breakdown of bills before our committee follows:

Total number of bills 50
 Unanimous reports 31
 Ought to Pass 3
 Ought to Pass as Amended 15
 Ought Not to Pass 13
 Divided reports 10
 Pursuant to Joint Order 8
 Pursuant to Joint Rule 13 1

Respectfully submitted,

S/Georgette B. Berube S/Ruth Joseph
 Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

COMMITTEE ON TRANSPORTATION
 ONE HUNDRED AND SIXTEENTH LEGISLATURE

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

BILLS IN THE SECOND READING

Bill "An Act Relating to the Definition of
 Passamaquoddy Indian Territory" (S.P. 780)
 (L.D. 2010)

Dear President Dutremble and Speaker Gwadosky:

Was reported by the Committee on Bills in the
Second Reading, read the second time.

We are pleased to report that all business which
 was placed before the Committee on Transportation
 during the Second Regular Session of the 116th
 Legislature has been completed. The breakdown of
 bills before our committee follows:

Representative TOWNSEND of Eastport presented
 House Amendment "A" (H-1098) which was read by the
 Clerk.

Total number of bills	25
Unanimous reports	25
Ought to Pass	0
Ought to Pass as Amended	17
Ought Not to Pass	8
Divided reports	0

The SPEAKER: The Chair recognizes the
 Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and
 Gentlemen of the House: This amendment would allow
 the Passamaquoddy Tribe, if they were successful
 under IGRA, to use the land in Calais as a possible
 site for a casino. This doesn't put your stamp of
 approval on casinos in the State of Maine, the tribe
 would have to be successful in court. You have on
 your desk a letter from the Attorney General's Office
 (the office that will be defending the state in
 court) and it says, "People in my office and I have
 reviewed L.D. 210, along with our proposed amendment,
 which would extend the acquisition date to the year
 2001 for this parcel only. We believe that passage
 of this language in state law would not influence any
 potential IGRA lawsuit. We have no objection to the
 passage of this legislation."

Respectfully submitted,

S/Joseph C. Brannigan S/William B. O'Gara
 Senate Chair House Chair

Was read and ordered placed on file.

Basically what this does is allow the Indians to
 use that land as an option if they win in court.
 They would have to go to the Calais City Council and
 negotiate the land deal and it just keeps Washington
 County in the ball game if casino gambling comes to
 Maine. That is all. You are not putting your stamp
 of approval on casinos coming to Maine.

The following Communication:

**COMMITTEE ON UTILITIES
 ONE HUNDRED AND SIXTEENTH LEGISLATURE**

April 6, 1994

The Honorable Dennis L. Dutremble
 President of the Senate
 The Honorable Dan A. Gwadosky
 Speaker of the House
 116th Maine Legislature
 Augusta, Maine 04333

I would appreciate your vote for this so that
 Washington County can be left in the ball game if
 this casino gambling does indeed come to Maine.

Representative BENNETT of Norway presented House
 Amendment "A" (H-1106) to House Amendment "A"
 (H-1098) which was read by the Clerk.

Dear President Dutremble and Speaker Gwadosky:

We are pleased to report that all business which
 was placed before the Committee on Utilities during
 the Second Regular Session of the 116th Legislature
 has been completed. The breakdown of bills before
 our committee follows:

The SPEAKER: The Chair recognizes the
 Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women
 of the House: Could the good Representative from
 Norway tell us what House Amendment "A" to House
 Amendment "A" proposes?

Total number of bills	45
Unanimous reports	38
Ought to Pass	0
Ought to Pass as Amended	23
Ought Not to Pass	15
Divided reports	7

The SPEAKER: Representative Ruhlin of Brewer has
 posed a question through the Chair to Representative
 Bennett of Norway who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Friends and
 Colleagues of the House: This amendment, I know, has
 caused some confusion about both its impact and its
 intent. Let me address what this amendment does and
 doesn't do.

Respectfully submitted,

S/Harry L. Vose S/Herbert E. Clark
 Senate Chair House Chair

Was read and ordered placed on file.

What this amendment doesn't do is remove
 preemptory, land from the trust. The amendment, as
 part of the whole bill, would require the approval by
 the Tribal Council. It requires agreement by the
 Passamaquoddy.

The amendment also does not dispossess the
 Passamaquoddy's of land. If this amendment and bill
 passes and the Passamaquoddy's agree to it it would
 remove some land in Albany Township, next to Bethel,
 from the trust, but the Passamaquoddy's would
 continue to own the land.

What this amendment does do is offers what amounts to a trade. Representative Townsend's amendment would allow up to 100 acres in Calais to be added to the trust, if the Passamaquoddy's agree. This amendment would say that the Legislature consents to adding new land in Calais to the trust if the Passamaquoddy's agree to remove from the trust the property in the Bethel area that we just allowed to be added into the trust just two years ago. This would insure that if a casino is built in Maine under IGRA that it would more likely be in Calais rather than in Bethel.

I believe the vote the other day on the casino bill was not a vote against the Calais location but rather a vote against casino gambling.

The people of Calais seem to want a casino. The people of Oxford County, by and large, do not want a casino. If IGRA forces allowing casino gambling in Maine, let us do all we can to see a casino is built where people want it and where it can be of the greatest benefit to the Passamaquoddy's by providing not only the cash that the casino would make but also the job opportunities for the people of the area.

I would like to make just one final point and that is that I prefer not to offer this amendment to the House floor. I would prefer that this proposal, as well as the entire bill, be considered within the thoughtful deliberations of the committee process including a public hearing. But, circumstances do not allow that if we are to act this year on this measure, the circumstances do not allow that.

I encourage you to adopt this amendment.

I ask for a division.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: House Amendment "A" to House Amendment "A" is illegal. Land taken into trust by the Passamaquoddy Tribe has been ratified by the Tribe and cannot be taken without sanction of the Tribe. So, this amendment is illegal.

I would ask House members to look into it legally before they do anything with Representative Bennett's Amendment.

Representative POULIOT of Lewiston moved that House Amendment "A" (H-1106) to House Amendment "A" (H-1098) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I think the good Representative from the Passamaquoddy Tribe has brought up a good point because working on the Indian Land Claims for about two years I know you can add but you can't take away. I would like to have that question asked.

The SPEAKER: Representative Clark of Millinocket has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Men and Women of the House: My understanding of the original L.D. 2010 is that it requires a ratification by the Tribal Council in order to take effect, anyway. This, by amending the original bill, would provide for the ratification by the Passamaquoddy. In other words, this would not peremptorily remove the land from trust but, would in fact, require the agreement by the Passamaquoddy.

It is not my intent — and I agree with the Representative from the Passamaquoddy Tribe that this would be illegal if we tried to do that. This puts into the bill the condition if the 100 acres is adopted by the Tribal Council, that the other lands must be removed from the tribe.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: Being one of the three people left over in this body from the Land Claims Settlement provision, my recollections is that not only is the tribe approval required but also the Secretary of Interior. It seems to me that if the Representative from Norway wishes to pursue that, the amendment that he wishes to offer should properly reflect the requirements of the Federal Act. This amendment does not.

I am not saying I am for or against it but I think that if it made it clear that this portion becomes effective after approval of the tribe and also approval of the Secretary of Interior then I am sure that the Passamaquoddy Tribe would have no opposition to that. If that is the case then I would suggest it be tabled until the amendment could be properly drafted that would reflect the intent and the correction of the Federal Act.

Subsequently, on motion of Representative WHITCOMB of Waldo, tabled pending the motion of Representative POULIOT of Lewiston that House Amendment "A" (H-1106) to House Amendment "A" (H-1098) be indefinitely postponed and later today assigned.

ENACTOR

Emergency Measure

An Act Regarding State Government Evaluation and Justification (H.P. 1485) (L.D. 2011)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative PARADIS of Augusta, tabled pending passage to be enacted and later today assigned.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee" (EMERGENCY) (H.P. 1083) (L.D. 1449) (C. "A" H-951; H. "A" H-1063) TABLED - April 11, 1994 (Till Later Today) by Representative JACQUES of Waterville.
PENDING - Passage to be Engrossed.

On motion of Representative RYDELL of Brunswick, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-951)

was adopted.

The same Representative presented House Amendment "A" (H-1105) to Committee Amendment "A" (H-951) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: You may remember that this Bill, L.D. 1449 failed of engrossment some days ago and in the interim the Rules Committee has, with persons in the Governor's office, worked out a new amendment that would take care of the objections to the Committee Amendment "A." This new amendment maintains the current time period for Legislative confirmations except in the last month of the legislative session when a legislative committee has a work load that would not permit that committee to fully consider its nominations. During this period of time with a two-thirds vote of the committee, the committee may request the presiding officers an extension if that committee is unable to conduct the nomination review because of the committee's work schedule. So that in most cases nominations can go forward but it does allow for cases when a committee has a heavy work load during the last period for the clock to stop. It retains, otherwise, the same time schedule that we have now.

I would ask for your support of this amendment.

Subsequently, House Amendment "A" (H-1105) was adopted.

Committee Amendment "A" (H-951) as amended by House Amendment "A" (H-1105) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-951) as amended by House Amendment "A" (H-1105) thereto and House Amendment "A" (H-1063) and sent up for concurrence. Ordered sent forthwith.

Resolve, Authorizing the Examination of School Finance and Taxation Proposals (S.P. 776) (L.D. 2003) (Governor's Bill)

- In House, passed to be engrossed on April 6, 1994.

- In Senate, passed to be engrossed as amended by Senate Amendment "A" (S-590) in non-concurrence.

TABLED - April 11, 1994 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Further Consideration.

Subsequently, the House voted to Recede and Concur. Ordered sent forthwith.

The following items were taken up out of order by unanimous consent:

ORDERS

On motion of Representative COFFMAN of Old Town, the following Joint Resolution: (H.P. 1487) (Sponsored by Representative: HICHBORN of LaGrange, Senator: PEARSON of Penobscot)

**JOINT RESOLUTION COMMEMORATING
THE 150TH ANNIVERSARY OF THE
INCORPORATION OF THE TOWN OF ALTON**

WHEREAS, the Town of Alton was incorporated by the

Senate and the House of Representatives of the State of Maine on March 9, 1844 and will celebrate its 150th anniversary during 1994; and

WHEREAS, John Bennoch, with the authority of the Commonwealth of Massachusetts, built a road in 1815 that became the main catalyst for a settlement in what was to become the Town of Alton; and

WHEREAS, Stephen Tourtelott built the first log cabin or other civilized habitation in this part of the country, making him the first recorded settler in the area now known as the Town of Alton; and

WHEREAS, other early settlers built saw mills, tanneries, taverns, shingle mills, stores and hotels that contributed to the economic well-being of the Town of Alton; and

WHEREAS, Reed Mehann, a citizen of the Town of Alton, was instrumental in having a telephone service established in the Town of Alton in 1911, which further established the town's economic and social structure; now, therefore, be it

RESOLVED: That We, the Members of the 116th Legislature of the State of Maine now assembled in the Second Regular Session join in the commemoration of the 150th anniversary celebration of the Town of Alton and extend our best wishes for good health and continued success to the town's inhabitants; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Was read and adopted and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1104) on Bill "An Act to Demonstrate the Value the State Places on a Strong, Competitive and Sustainable Paper Industry" (H.P. 1466) (L.D. 1993)

Signed:

Senators:

SUMMERS of Cumberland
BALDACCI of Penobscot
CAREY of Kennebec

Representatives:

DORE of Auburn
NADEAU of Saco
TARDY of Palmyra
DIPIETRO of South Portland
RAND of Portland
HOGlund of Portland

MURPHY of Berwick
SPEAR of Nobleboro
SIMONEAU of Thomaston

Minority Report of the same Committee reporting
"Ought Not to Pass" on same Bill.

Signed:

Representative: FARNSWORTH of Hallowell

Reports were read.

On motion of Representative DORE of Auburn, the
Majority "Ought to Pass" Report was accepted.

The Bill read once. Committee Amendment "A"
(H-1104) was read by the Assistant Clerk and adopted.

Under suspension of the rules, the Bill was given
its second reading without reference to the Committee
on Bills in the Second Reading.

Under further suspension of the rules, the Bill
was passed to be engrossed as amended by Committee
Amendment "A" (H-1104) and sent up for concurrence.
Ordered sent forthwith.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 12, 1994

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

In reference to the action of the Senate whereby the
Senate insisted and asked for a Committee of
Conference on the disagreeing action between the two
branches of the Legislature on Bill "An Act to
Increase Access to Primary Care by Redefining the
Practice of Advanced Nursing" (S.P. 390)(L.D. 1185).

The President appointed on the part of the Senate the
following:

Senator McCORMICK of Kennebec County
Senator CIANCHETTE of Somerset County
Senator HARRIMAN of Cumberland County

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

ORDERS

On motion of Speaker GWADOSKY of Fairfield, the
following Joint Order: (H.P. 1488)

ORDERED, the Senate concurring, that Resolve,
Establishing the People with Disabilities Access
Commission, H.P. 1321, L.D. 1783, and all its
accompanying papers, be recalled from the Governor's
desk to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, all matters having been
acted upon were ordered sent forthwith.

ENACTORS

Emergency Measure

An Act to Amend the Laws Relating to Potatoes
(H.P. 1273) (L.D. 1717) (H. "A" H-1096 to C. "A"
H-1059)

Was reported by the Committee on Engrossed Bills
as truly and strictly engrossed. This being an
emergency measure, a two-thirds vote of all the
members elected to the House being necessary, a total
was taken. 115 voted in favor of the same and 0
against and accordingly the Bill was passed to be
enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish the Project Opportunity
Demonstration Program (S.P. 729) (L.D. 1950)
(Governor's Bill) (S. "A" S-626 to C. "A" S-613)

Was reported by the Committee on Engrossed Bills
as truly and strictly engrossed. This being an
emergency measure, a two-thirds vote of all the
members elected to the House being necessary, a total
was taken. 112 voted in favor of the same and 6
against and accordingly the Bill was passed to be
enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Harness Racing Laws
(H.P. 1243) (L.D. 1670) (H. "D" H-1003 and H. "F"
H-1095 to C. "A" H-948)

Was reported by the Committee on Engrossed Bills
as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the
Representative from Lewiston, Representative Aliberti.
Representative ALIBERTI: Mr. Speaker, Ladies and
Gentlemen of the House: Again, I call your attention
to the new amendment "H" which replaces House
Amendment "E." I don't think you fully understand
what this House Amendment does.

I would ask permission of the Speaker to surface
one or two questions if I may. The first one is, you
are establishing a dedicated account, a dedicated
account, which sets a cap on a projected revenue of
\$74 million and that cap kicks in at \$52 million for
the exclusive use of the Harness Racing Commission.

I have seen more causes here, valid causes, than trying to establish dedicated accounts in this one. It has no objectives to it, nothing, just allowing the Harness Racing Commission to have these dedicated funds.

I would like to have the good Chair of the committee explain that so you fully understand it before you take your vote.

The second question I would like to ask — this creates a position and a half. Why hasn't that gone to the Appropriations Table? Why hasn't that gone through the process that most funds that are addressed? Perhaps I am proving myself to be ignorant of the process. I am not thin skinned so I can take that part of it. But, on the dedicated funds I would like to have a direct answer.

The SPEAKER: Representative Aliberti of Lewiston has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: The request for the Supplemental Budget, from the Harness Racing Commission did go to the Appropriations Committee. They felt that the OTB handle and the live racing handle would be much larger than what the Bureau of the Budget would accept. The Bureau of the Budget, when they projected the revenues for FY '95, used \$52 million as the maximum, the gross handle for the state.

The Commission felt that it would be higher and they budgeted for several positions and we went along with what is in this document.

What we did was probably put them on the incentive program. We said fine, if the handle does go beyond the \$52 million that part of the handle would have gone to the General Fund, would fund these positions which amounts to less than \$80,000 if they did \$20 million in handle beyond the Bureau of the Budget's revenue estimate.

So, it is probably the only agency in the state that is in an incentive system.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, fellow Colleagues of the House: I don't want to insult your intelligence but do you really understand what he projected to you? Do you really understand it? I have been exposed to it over and over again and I still don't understand it.

Representative ALIBERTI of Lewiston requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 350

YEA - Ahearne, Anderson, Ault, Bailey, H.; Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Chase, Chonko, Clark, Cloutier, Clukey, Constantine,

Cross, Daggett, DiPietro, Donnelly, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Hochborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kneeland, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pfeiffer, Pineau, Plourde, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Ruhlin, Saxl, Simoneau, Small, Spear, Strout, Sullivan, Tardy, Taylor, Townsend, E.; True, Tufts, Vigue, Walker, Wentworth, Whitcomb, Young.

NAY - Adams, Aikman, Aliberti, Barth, Beam, Bennett, Birney, Carleton, Cathcart, Clement, Coffman, Coles, Dore, Driscoll, Dutremble, L.; Farnum, Farren, Heino, Jalbert, Joy, Larrivee, Marsh, Martin, J.; Melendy, Murphy, Pinette, Plowman, Pouliot, Ricker, Rydell, Saint Onge, Skoglund, Stevens, A.; Stevens, K.; Swazey, Townsend, G.; Tracy, Treat, Zirnkilton.

ABSENT - Bailey, R.; Bowers, Caron, Cashman, Cote, Dexter, Foss, Heeschen, Hillock, Johnson, Kontos, Kutasi, Martin, H.; Michael, Nash, Ott, Pendleton, Simonds, Thompson, Townsend, L.; Winn, The Speaker.

Yes, 90; No, 39; Absent, 22; Paired, 0; Excused, 0. 90 having voted in the affirmative and 39 in the negative, with 22 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The Chair laid before the House the following item which was tabled earlier in today's session:

Bill "An Act Relating to the Definition of Passamaquoddy Indian Territory" (S.P. 780) (L.D. 2010) which was tabled by Representative WHITCOMB of Waldo pending the motion of Representative POULIOT of Lewiston that House Amendment "A" (H-1106) to House Amendment "A" (H-1098) be indefinitely postponed.

Representative BENNETT of Norway withdrew House Amendment "A" (H-1106) to House Amendment "A" (H-1098).

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, I would pose a question through the Chair.

Under the conditions, as written in the bill and pending the acceptance of Amendment "A" my question is, does this piece of legislation restrict the usage of the potential sale of this land to a casino usage? I am referring to the wording under the pending amendment, under C, Item 2. Under Item 1 it goes on to say, "if the acquisition of the land by the tribe is approved by the legislative body of that city and 2, a Tribal State Compact under the Federal Indian Gaming Regulatory Act is agreed to by the state and the Passamaquoddy Tribe or the state is ordered by a court to negotiate such a compact." Therefore, I am asking the question is the acquisition of this land to be locked in to the usage of a casino under the IGRA regulation act? If it is that way?

The SPEAKER: Representative Look of Jonesboro has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I am most certainly not a lawyer so I won't try to talk in definite legal terms, maybe someone else could address that. Before that land can be used for anything they have to go back to the Calais City Council and sit down and negotiate the sale of that land. I, like I said, am not a lawyer but I do have great trust and confidence in the elected officials of Calais to get the best deal or whatever it might be for their folks.

Does it restrict it? Just in my layman's terms in reading it, I don't suspect it does but I will warn you that I am not a lawyer. The safeguard here is that it has to go back to the elected officials of the City of Calais.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: For the Record, L.D. 2010, House Amendment "A" to House Amendment "A" a proposed amendment to the Maine Implementing Act — for the Record I would like to say that the terms of the Federal Law enacted in settlement of the Maine Indian Land Claims bars the State of Maine from amending provisions of the state act to implement the Maine Indian Land Claims Settlement, 30 MRSA, Section 6201, relating to the governmental authority of the State and the Passamaquoddy Tribe, unless it has the consent of the Passamaquoddy Tribe. A copy of the relevant language can be secured in Title 25, Section 1725. Any amendment affecting the land included in the Passamaquoddy territory relates to the allocation of the governmental responsibility including the jurisdiction of the court over specified geographic areas, any such amendment therefore falls within the scope of the Federal Law provision that has cited.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I think the question posed by Representative Look is whether or not the land would have to be sold to the Secretary and whether or not that land could be sold to someone else who could then could refuse to sell it to the City of Calais — that is what I am gathering. The question here (and it is very clear in Federal Law) that in the negotiation of a Land Settlement Act, land that entered into the possession of the Tribe (both the Penobscot Nation and the Passamaquoddy Tribe) was acquired by voluntary sale on the part of parties throughout the state. That is to say that if that land were to move from party X or the City of Calais it would have to be done in the same fashion. Then Calais, in that regard, would then become, for example, the owner or anyone else could negotiate with the Secretary. So, that 100 acres would in fact be done with that approval. Beyond that, it requires approval of the Secretary of Interior and requires approval of the Passamaquoddy Tribe to enter into that agreement under the terms of the Land Claims Act so that actually there is a three step process that would have to take place.

I don't see anything any different than what was followed in the past.

If that doesn't answer the question then I don't know what the question was and I think we have all missed the question.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: As I understood the question, I could be wrong also, the question was whether or not this amendment requires that the land, if this procedure is followed, be used for a casino. I think that the amendment is very clear and it is consistent with what I understand the purpose of the amendment to be. That is to say that the purpose is to allow the 100 acres in Calais to be included in Indian Territory, subject to two conditions happening. One being that Calais approves it and the other being what is laid out in number two here. But, if those conditions happen it just says that that land can go into Indian Territory. It is silent as to whether it be used for a casino and therefore seems like anything else in Indian Territory, certainly it isn't required to be used for a casino. Certainly, if it were determined to put a casino elsewhere then it would be available to be used for something else.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: I have a slightly different interpretation of the answer to the question. It seems to me that by the language of the statute a Tribal State Compact under the Federal Indian Gaming Regulatory Act is a precondition for this parcel of land to be considered Indian land. Therefore, I think the answer to Representative Look's question is yes, this land would be used toward a casino.

There is a further provision in the gaming act that would have to come into play and that is that after acquired land, later acquired land, is not usually considered appropriate for utilization under the gaming act unless the Governor of the state grants his approval. I think there is a further qualification in there.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: In view of the responses which my question brought forth I would say that Representative Farnsworth did understand my question. We have varied responses on this and I think that this is a question that we need to be absolutely sure of before we vote on this. I just want to call that to your attention. I really would like an opinion on this from the Attorney General, if possible.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I would reiterate that the Attorney General has sent a letter around concerning the bill and the amendment — that comes from the Attorney General's Office and they don't have a problem with it. Therefore, considering that they are going to defending the state in the event of a lawsuit under IGRA I would think that if anyone had any problems with this they would be the first to jump on it and say no, this weakens our position. They have no concerns with this amendment.

It says, "People in my office and I reviewed L.D. 2010 along with our proposed amendment which would extend the acquisition date to the year 2001 for this

parcel only. We believe that passage of this language in state law would not influence any potential IGRA lawsuit. We have no objections to passing this legislation. Michael E. Carpenter, Attorney General."

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, I would pose a question through the Chair.

With regard to the Attorney General's memo, the Representative from Eastport is correct, as I read it. The Attorney General only comments on whether or not this bill would impact the IGRA lawsuit. My question is, by passage of this bill, are we saying ahead of time, ahead of negotiating a compact agreement, which would be the procedure were IGRA to be found to apply in this case, would we be setting a condition prior to that negotiation and, would this in any way impinge upon the states ability to negotiate a compact? I wonder if anybody would comment on that?

The SPEAKER: Representative Robichaud of Caribou has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Members of the House: I would like to respond to that question and also the earlier comment with the same answer and that is the only reference in here to a Tribal State Compact, it is just a compact and I don't think that it is a fair reading of this bill in any way to presume that that dictates the terms of any compact or restricts anything otherwise available to the parties to negotiate. So, for that reason, I would answer Representative Robichaud's question in the negative. I would also reassert that there is nothing in here that restricts or requires that this casino be located in Calais. It simply makes Calais have the same level of eligibility as other territories.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Men and Women of the House: I would like to respond to Representative Robichaud's question. I concur and I agree with Representative Farnsworth that there is nothing in the bill that makes this land, if it does become tribal land, go to a casino. It could be used for any purpose that would be so designated by the tribe.

However, I believe that if in fact this bill is passed with the amendment that what we are saying is that the agreement to be worked out in terms of the use of the land would be between the Town of Calais and the Tribe, subject only to good faith negotiations as provided for in IGRA. It would be my thought that we are in fact giving away a chip in the negotiations that could take place if in fact the tribe won under IGRA.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: Last Thursday we voted down having a casino in the State of Maine and here we are today, just a few days later asking ourselves where this casino will go. To me this seems very premature, there is no reason for us to be adopting this bill at this time. This bill has not had a chance to have a hearing, it has not gone to committee, it is a rushed

item at the last moment in the waning days of this legislature. I ask you to postpone this bill and not to act on it right at this moment.

I have even heard talk in the hall about this bill might encourage those to assume that they could start building and let the law case come later. I am sure that is not anything that would be stated in this hall but there are real concerns about what one does and we have not had a thorough hearing on this bill.

So, with your permission I would move to indefinitely postpone this bill with all its accompanying papers.

The SPEAKER: The pending question before the House is the motion to adopt House Amendment "A," the motion to indefinitely postpone House Amendment "A" would be in order, the Chair is unable to accept the motion to indefinitely postpone the entire bill since the entire bill is not before us.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Members of the House: I am a little confused as to why some are concerned about having negotiating ability with the tribes on this issue. In my opinion we had an ample opportunity last week and we turned that down.

Traveling back East this past weekend I confronted and dealt with all weekend long, a lot of disappointment, a lot of anger, a lot of noses bent out of place (if you will). I don't entirely agree with all of that. I am convinced that this House turned the gaming bill down because they were uncomfortable about putting their endorsement on gambling. That is a legitimate reason to vote against it. No question about it. Let me state that from Washington County right here and now.

However, what this does and how this is viewed and how I feel — this bill has been kicked around probably as much as anything we are going to kick around here today. Any more time to discuss it I think is a moot point and I really suspect it a delaying tactic and nothing more.

What this says to Washington County folks — this says even though I was uncomfortable in endorsing casino gambling in the State of Maine and I still am, if the tribes are successful under IGRA, if they even decide to go that way, Washington County, (the area that needs economic development most) is in the ball game. That is it. There are no guarantees that it is even going to go any further than this discussion today on the floor of the House. Washington County folks, like I stated last week, do not want a handout, they want an opportunity. Here is a chance to give them the opportunity to stay in the ball park if this type of economic development comes to the State of Maine. It is that simple.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think this effort is a cruel, cruel hoax on the Passamaquoddy people and on the people of Washington County. It is time that this casino project was put to death. We don't want it in the State of Maine and for some individuals to keep holding out for the hopes of these people who are looking for jobs and looking for assistance to create those jobs it borders on being a crime. I question why this bill is before us. We made the vote not to have casino gambling in this state and that should be it. For some entrepreneurs, some financial advisors to keep holding this carrot out in

front of the Passamaquoddy people and the people of Washington County is not right.

I have made efforts to contact people of both locations up there, both tribal governors and ask them for a list of their projects that they needed funds for, projects that are viable that I know about, that could be gotten funds for. That is what those people should be working on, not having a casino held out there in front of them from now until who knows when. Let's talk about real economic development for that area up there.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Farren.

Representative FARREN: Mr. Speaker, I would pose a question through the Chair.

Maybe I am a little confused on these conditions. However, in Item 2, Section C, it referenced a gaming regulatory act — if the contact with the Federal Indian Gaming Regulatory Act is agreed to by the state. I can't see but what this is directed toward building a casino at that location. However, my question is, it mentions in there that the only approval that they need for the purchase is the legislative body of the City of Calais. However, I think previously we heard from people in the surrounding communities which were concerned about the casino going there. Are there any provisions, that I can't find in that bill, that would permit that?

The SPEAKER: Representative Farren of Cherryfield has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I don't know of any language in there that would allow surrounding towns to vote on this. But, then again, I would think that would be setting a precedent and even though there were some folks in surrounding towns that were concerned with it you can in no way interpret that as the majority. All polls show two to one — that is beside the point, those are unscientific polls. I don't know of any other instances with economic development when a particular town had to vote on something that every town surrounding it also had to vote on it so I consider that a moot point. To answer your question, no, I don't feel there is any language in there that would allow that. I think that was your question, maybe I misinterpreted it but as far as I know there is no language in there to allow towns surrounding that area to vote on that, nor would I support something like that. I think that would be setting very dangerous precedent.

Also, Mr. Speaker, while I am on my feet I did want to respond to a couple of comments mentioned by the good Representative from Old Town, Representative Coffman. One of the things that Washington County folks are tired of is politicians coming down and telling us what is good for us. We are well able and capable of determining that for ourselves. I don't like the reference that we are holding out false hopes for our folks because those of us who represent Washington County, either on one side or the other of this issue, have forgotten more about what Washington County is about than those who don't live there will ever know.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative

Farren.

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I didn't make myself clear. I have no problem with acquisition of the land being approved by the City Council of Calais. However, I do have some concern when a casino, if that is what went in there, and that is what it indicates to me — the purpose of reserving the property — that impacts people more than just the people in Calais. I think at least the people in the surrounding towns ought to have some input on what is going to take place there.

In my opinion, it is going to have an impact over the entire county, but, at least we ought to be considering the people in the surrounding communities.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: The Passamaquoddy Tribe came before this legislature with a proposal for economic development and jobs and prosperity for Washington County. The legislature turned that down.

You have a bill before you, L.D. 2010, that was proposed by the Washington County area people asking if the tribe would consider, if the tribe chooses to pursue IGRA and won, would we consider that area again? That is all this bill does. That was by request of the Washington County area people.

I am not at liberty at this time to say what the tribal action is going to be, that is under consideration and deliberation by the tribe as a whole at Indian Township and Pleasant Point, and working with people that we need to work with in the Federal Government and those people at the state level that wish to work with the tribe so that we can develop as an honest working population of this state.

No one knows better than the tribal people the projects that we need to undertake and where we can go to meet the needs of our people.

I thank you for your consideration. It is really up to you if you want to consider L.D. 2010 for the people of Washington County. If the tribe pursues IGRA and if the tribe wins, it is the tribes choice as to where a casino will be built if that is what they propose to do. I am not saying that is what they propose to do at this time. Calais wanted to be in the ball game, as Representative Townsend said.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, I would like to pose a question through the Chair.

What is not clear to me is, is it necessary for us to pass this bill at this time, this late in the session without a public hearing or public work session? Is there some reason for that? Could the bill be put in next session and go through the normal process?

The SPEAKER: Representative Townsend of Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I didn't put the bill in and I didn't know about it until after it was decided to put it in. It makes sense to me that people would want to put it in now if they are from Washington County because I think there is a risk for Washington County that if the tribe were to decide to proceed

under IGRA and at the time they began that process, Washington County were not an eligible place, then if an order every were issued to negotiate for that end, it is possible that they might not be eligible as a form of relief.

I think there are possibly other ways to deal with that but, if you are from Washington County and you have just bared your soul to this Legislature and even had to look again yourself at how things are — I think they are trying to preserve the right, that is what this is all about.

I guess I feel very comfortable urging the legislature to support this for that reason as well because it also became clear to me that — as a matter of fact for both the tribe and others, including the state, I think it is quite possible that if they ever get to a place where under IGRA they are dealing with this, monetary considerations may play a much greater role for both or all sides or whatever, in locating a casino than the employment needs of Washington County because the market is much more lucrative in other parts of the state where the tribe already has land. I see that if this legislature has absorbed anything out of last weeks debate what I hope people absorb is the crying need and what I hope people would be comfortable with is acknowledging that there is that and just saying okay, this part of the state ought to be considered for that purpose if it is ever an issue. I don't see this as affirming in any way casino gambling because this Legislature spoke so clearly. But, I do see it as a very mild affirmation of Washington County and its needs and a very mild affirmation of the fact that people heard what was said last week so eloquently and so movingly (as far as I am concerned) by people from that area about what their people need.

I would ask the people of this legislature to remember what they heard last week and just listen to that part because without that it is possible that Washington County would be left in the dust again.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Men and Women of the House: I don't think Washington County needs a mild affirmation. I think they need a strong affirmation. I made an effort as soon as that bill died. I went upstairs and I asked those tribal leaders to present their projects; viable, economic projects. I called some people in Washington County and asked them to do that. I met with some banking concerns. I met with FAME. They are all willing to look at those projects. If we hold out the hope for a casino when we already voted no on casino, I think it is a crime.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: May I remind the Legislators that Calais is centrally located between the Pleasant Point Reservation which is 25 miles east of Calais and 25 miles going north is Indian Township. I would just like to make that point. And, we have Indian territory on both reservations.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I pose my original question not for any delay tactics. In all sincerity, it was a question in my mind as to exactly what this legal

term meant. At this point I am still not sure. I can see the need for acquisition of land, if the Passamaquoddy's desire this, but I wanted to know if they acquired this land under the terms of the second part of Section 3 that it locked it into the usage of a casino. I would have no objection of acquiring land and making other usage but because this legislature overwhelmingly refused or objected to the placement of casinos, I wanted to be sure whether this was land limited to be used as a casino or whether they could use it for any other purpose.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-1098). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative FARREN of Cherryfield requested a roll call on adoption of House Amendment "A" (H-1098).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Members of the House: It has been a long year and a half. I went home this weekend and the people of Calais and the surrounding vicinity were sad. Even those who were, for one reason or another, against the casino. A lot of the people were sad about the way things went last week. A lot of people were telling us how we should live down there, what we should do, where we should go and you know we can think on our own feet.

This bill is a simple bill, it simply states that it is the last of the ninth, two outs, give us one more out, that is all we ask.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-1098). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 351

YEA - Ahearne, Aliberti, Ault, Bailey, H.; Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Constantine, Cote, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Hichborn, Hoglund, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saint Onge, Sullivan, Swazey, Townsend, E.; Townsend, G.; True, Tufts, Vigue, Wentworth, Young, The Speaker.

NAY - Adams, Aikman, Anderson, Beam, Birney, Carleton, Clukey, Coffman, Coles, Cross, Donnelly, Dore, Farnum, Farren, Gamache, Gray, Heeschen, Heino, Holt, Hussey, Joy, Kneeland, Lemont, Libby Jack, Lipman, Look, Lord, MacBride, Marsh, Marshall, Nickerson, Ott, Pendexter, Plowman, Reed, G.;

Robichaud, Rydell, Saxl, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Taylor, Tracy, Treat, Walker, Whitcomb, Zirkilton.

ABSENT - Bailey, R.; Barth, Caron, Cashman, Dexter, Foss, Hillock, Jalbert, Johnson, Kutasi, Libby James, Martin, H.; Michael, Nash, Pendleton, Pineau, Simonds, Tardy, Thompson, Townsend, L.; Winn.

Yes, 79; No, 51; Absent, 21; Paired, 0; Excused, 0. 79 having voted in the affirmative and 51 in the negative, with 21 being absent, House Amendment "A" (H-1098) was adopted.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I move that the Bill and all accompanying papers be indefinitely postponed.

The bill to be considered in the second part of the Legislature ought to be emergency in nature. The lawsuit by the Passamaquoddy's is yet to be filed. It is to be filed in Federal Court which is not a short process. We will be back here in January, some of us will be back here in January of next year. This bill should be resubmitted for the next session to be considered by the full complement of the Judiciary Committee with all the questions that have been considered here to be considered again and all the further questions that we would come up with will be also considered to benefit our analyst and the experience that the Judiciary Committee brings with it.

I ask you to indefinitely postpone this bill so that it can be fully considered and an appropriate decision can be made at that time.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Colleagues of the House: In my short time here I have heard several Representatives refer to a vote as being the hardest vote we will take. The hardest vote that I have ever made was made last week on this casino bill. I do oppose casinos in the State of Maine as a matter of public policy. I was very concerned about the overstatement of revenue. I was very concerned about what seemed to be a lack of attention to the potential social and economic problems brought about by a casino. I was afraid that area businesses would suffer and, finally, I was convinced by the simple statement that in order for a casino to be successful a lot of people have to lose a lot of money. I was very concerned about the people of Washington County and about our Native Tribes.

I don't think we are debating casinos as a public policy today. I would, therefore, urge you not to indefinitely postpone this bill but to support it. I will support it. I do still believe that casinos in the State of Maine are bad public policy but I believe what we are faced with will be the tribal rights of our Native Americans if those rights are upheld in Federal Court then we are being faced with or presented with a choice as to how to respond to that eventuality. I say that if in fact it will help the people of Washington County, if it is the will of the tribes and the people of Washington County, then I will support that effort in locating a casino in that part of our state.

I have been very impressed by what I have heard about the relations between the people of Calais and the tribes, the amount of work that was done on this bill and I want to give that support. I urge you to vote against the motion to indefinitely postpone this

bill and its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I apologize for getting up but I just needed to say something. I urge you to vote against this motion to indefinitely postpone this bill. I think it is important today that we (as a legislature) take a stand in favor of the people of Calais.

This is not going to allow a casino in our state. If the tribes so choose they will go to court to determine that under IGRA.

What this would allow is for the people of Calais, once again, to decide that should a casino be approved by the court that the people of Calais and Washington County would have an opportunity to have it placed there. I think it is only showing a bit of respect for them and their right to decide for themselves, for us to defeat this motion and go on to pass this bill.

Representative TOWNSEND of Eastport requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank you for your kind support. I want to urge each and every one of you to allow Washington County to stay in the ball game if this type of economic development comes to the State of Maine. And, I want to thank those who voted with us to allow us to walk back to Washington County with our heads held high.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Colleagues of the House: To allow us to stay in the ball game — what does that mean? It means that we will be allowed to have casino gambling in the State of Maine at Calais and we are picking that specific location and that specific property. We will be or may be faced with a lawsuit. When that lawsuit is over we will know whether the Attorney General was right in his opinion as to whether the Indians will be allowed to have casino gambling under IGRA or whether they will not be. It was the Attorney General's opinion which he ventured last week that they would not win that lawsuit and that casino gambling would not happen in the State of Maine.

It seems to me that the appropriate time to acquire land is after that court decision and not prior to it.

I remind you that last weeks debate (and vote) overwhelmingly said that we did not want casino gambling in Maine and suddenly again this week we are debating where we will put this casino. It seems ill-timed and inappropriate to have that vote now. Let's wait until next session, let's wait until that decision is rendered.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: The Attorney General has stated his opinion that the State of Maine will prevail in a lawsuit under IGRA. That is not really the issue. Indeed, he stated in his letter, explicitly, that he believes that passage of this legislation will not prejudice the position of the state in that potential lawsuit.

I voted against the casino bill but I will be voting against the motion to indefinitely postpone. I believe that is the appropriate move from the perspective of the State of Maine — because, someone said we are deciding to have a casino in Calais — that is not what this bill would do.

If, (if) the tribe were to prevail under IGRA they have quite a number of options of tribal land to choose from. I think it is the State of Maine's advantage to have one of those options be Calais. Many people in this body have a philosophical objection to casinos in general. But, I think most of us all agree that a very strong case was made that if we have casinos, Calais is an excellent location (from our public policy point of view for the entire State of Maine) for such casinos.

I would much prefer that when the tribe is considering a lawsuit, when they are going forward with their options, that if they go forward with those options, they will have Calais as a potential location that they would focus upon rather than some other location which the State of Maine might find much more objectionable. I would much rather have the Calais location on the menu, if you will.

So, I will oppose the motion to indefinitely postpone. I think it is good public policy to allow for that as an option.

I oppose casinos in general but if the tribe prevails under IGRA I think this puts the state, and the tribe, and the people of Washington County in a reasonable posture for all concerned.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative SOCTOMAH.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: I would implore you not to support the indefinite postponement of this L.D. and its papers.

The SPEAKER: The Chair recognizes the Representative from York, Representative OTT.

Representative OTT: Mr. Speaker, Men and Women of the House: I think this debate has gotten too broad. We are talking about the same issue that we discussed last week when the casino bill was before this body. The issue to me is whether or not we are now going to open up an opportunity for the tribe if it is successful under IGRA to automatically have the right, together with the people of Calais to, place that casino where the bill had proposed it last week. It seems to me that it is the cart before the horse.

One of the most compelling arguments that floated around these halls last week, and as a matter of fact even before our committee (the Judiciary Committee) was the fact that the tribe would have the right to obtain permission or a license for a gaming casino under Federal Regulation (IGRA), so why not get on board early so the state would have an opportunity to discuss and negotiate terms that looked upon that process, that placement of that casino in Calais with certain rules and regulations that were within the

states purview to establish.

If we pass this measure it seems to me we throw that out the window and we say that if the Indians are successful in obtaining permission from IGRA to establish a casino then they would have the opportunity without any further negotiations with the state to place that on trust land, which if this were passed would include those lands in the Calais area.

It would be my opinion that we should withhold this permission by postponing this bill at this time. If the tribe is successful under IGRA, then at that point, if there is still interest to establish a casino in the Calais area, expressed both by the tribal members and the people in Calais, then let them come to this body and ask that that be established there. At that time it seems to me that there is still an opportunity for both sides to establish some negotiations that would be favorable to everyone.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative SULLIVAN.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I think the debate here has gone far afield and I would request, simply, that everyone look at the Statement of Fact in regard to this amendment. This amendment extends to the year 2001, the date for the Passamaquoddy Tribe to acquire territory, only with regard to 100 acres in Calais and not with regard to other areas where the tribe has previously been authorized to acquire territory.

I would ask you to please do not indefinitely postpone the bill and papers.

I voted against the casino but I voted against it not on moral grounds but rather a so-called economic development tool which I did not see it to be fulfilling.

I would ask you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative BENNETT.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I agree with both the previous speakers, that this debate has gone afield and that what we are looking at here is whether or not to adopt this bill, which is fairly specific, but has not had the privilege and the deliberations that is given through the committee process.

I have a specific question that arises immediately to mind. On line 20 in the amendment on the second page, where it says any land not exceeding 100 acres in the City of Calais. Does that mean that that is one parcel of land not exceeding 100 acres or is it several parcels that add up to 100 or is it several parcels each that contain 100?

I don't know the answer to that question — this is the kind of problem that we get when we have bills in late in the session. Maybe that could be easily answered and perhaps other members can come up with questions as well.

I am going to be voting to indefinitely postpone this bill and its papers because I haven't been convinced of the need to do this right now and I agree with Representative Ott that perhaps we should wait until the next legislature can investigate this thoroughly and put a bill before us that has had the appropriate committee deliberations.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative LIPMAN.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to raise some

questions in regard to this bill. Again, these questions are being raised because we have not had a public hearing, we have not gone through the committee process.

One question, Representative Farren brought up some time ago, maybe an hour ago, what do we do in terms of assuming the Tribe wins the IGRA suit, therefore they go to Calais, they get approval, what about the infrastructure in the neighboring communities?

What do we do about state taxes?

What do we do about police protection?

These are items, the reason they should be left open so if in fact they win the suit that we are open to negotiate with these items.

As I stated earlier, I think that one of the issues that if you win — and in the Attorney General's opinion says that this bill will not affect the capacity to win or lose a suit, I don't dispute that, but the question is, are we (as the State of Maine) as well off in working with the tribe in the Town of Calais, in Washington County, having passed this now versus waiting and putting something together in a sensible fashion and covering all these areas including infrastructure?

I would urge you to support the pending motion and wait until a bill comes in and we put something more comprehensive together.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: The essence of this bill is to take 100 acres in Calais and make it eligible for inclusion in Passamaquoddy Indian Territory. That was the essence of the two-page bill that came before this session last year. That was the fundamental feature in the beginning of the 40 page amendment that we debated at length last week. I find it slightly ironic especially since I am concerned about similar issues with respect to several other, much bigger bills in front of us right now that this particular bill be labeled as one that is newly before us, something that we have never seen before. I don't think that we have had too many bills where that part of it has seen as much light of day as this part.

I really believe that the discussion we have had today is in fact away from this bill. What we are trying to do is preserve eligibility for Washington County. It is possible they will loose that.

The fact is that if it is ever ordered that we have to have a casino on Indian territory here, I strongly believe that, there are other markets usually much closer to urban areas or for example ski resorts where the market will be more lucrative. Both the state and the tribe, by that time, after all the expense they may well have been through may have different interests than they did last week when they came in concerned about unemployment. We had that discussion last week. We are not entering into a casino agreement on a voluntary basis here anymore.

I think the Legislature has made very clear we do not endorse, as a policy, casino gambling in this state. This bill is to give Washington County the option, the eligibility, for being considered if it is ever ordered.

I would urge you to vote against indefinite postponement.

The SPEAKER: The Chair recognizes the

Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I would say that this piece of legislation does just allow Washington County to stay in the running. It doesn't take away any of the states rights to negotiate in good faith once IGRA applies. I am going to vote against the indefinite postponement and I would urge all of you to do the same.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I resented, very deeply, last week when I got threatened with IGRA. When I was threatened that I should vote a certain way because of IGRA. I feel that this bill is even more of a threat and more of an affront being threatened with IGRA. If Tom Tureen and his financial wizards could have built a casino without state permission and sharing state funds with the state, be assured he would have. He knows that, it is time we know it too.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: This raises for me again more or less the same question I asked earlier which isn't clear to me is exactly how Washington County could lose any eligibility between now and January? It seems to me that any lawsuit would take at least that long. If I can hear a very clear, very explicit, very convincing reason as to how they might lose eligibility between now and next January when we would have the opportunity to debate this in a public hearing and have a public work session, I might be convinced to support the bill but I have not heard that argument yet.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Once again I will remind folks I am not a lawyer and I am not going to try to speak in legal terms. It is the feeling that if we are not included ahead of time, if they go to court, then they would have no reason whatsoever to want to include Calais in the running. We are not asking you to endorse casinos, that has been stated. We are not asking you to give us anything. We are asking you please do not eliminate us from the process.

The most important thing about this bill (to me) and I will let the lawyers argue the legal aspects, I am satisfied with the state's highest lawyer's opinion.

Washington County has been knocked down. That is the attitude in Washington County. If you don't believe me travel down there. Talk to some folks down there. I don't mean on the phone to those that you pick out — I refer that to one particular person, get down there (if you care) and talk to people.

I had people calling me all weekend, not only those that were for the casino but those who were definitely against the casino, felt like they got a slap across the face. Now, whether that is real or perceived I have already made my statement on that, I feel it is perceived. I have full confidence in this House, I am very proud to be a member of it and I feel that you voted against it last week because you had a problem endorsing gambling. I accept that. I admit it took me a couple of days to come to that

conclusion but I accept it. You are absolutely correct and it is a legitimate reason to vote against that bill.

All we are asking you now, whether it is legally important or otherwise, we are asking you to extend to Washington County and all the people and say to those folks the vote was not against you, the vote was against gambling. We want to leave you in the ball game if this comes. That is all that is being said. I don't understand what is so difficult to see in this.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: In answer to the question, again, posed by the Representative from Portland, it is my understanding that the issue could come up in the following way. If a court decision were issued, the court (as it did in Rhode Island) if it were issued in favor of the tribe (if there were a court case so and so forth) the court would order the state to negotiate over the placement of or establishment of a casino on Indian land or Indian territory (I am sorry I don't know which word is appropriate right this minute) but if Calais is not included in Indian land at the time the court order is issued then it can not be included in that order. The state would be ordered to negotiate over anything just about, except for Calais, that is in Indian territory. That would be my understanding of how it could be possible that Calais could be excluded. In other words, the whole — IGRA does require negotiation with the state. It has limited what can be demanded to be bargained over by the state but it does require a negotiation with the state. When they issue the order they would be ordering bargaining over a casino in Indian territory so Calais has got to be in Indian territory in order for that to be appropriate subject matter of such an order.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, I would pose a question: We have heard court cases, we have heard IGRA, can anybody give me an idea how long it is going to take a court case for IGRA to get through the courts?

The SPEAKER: Representative Lord of Waterboro has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Men and Women of the House: It would be my estimate, by the time you went to the First District Court (which they did in Rhode Island) and the Circuit Court of Appeals, which they have done, it would probably take three to four years.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I have also talked to lawyers who would say it could take as little as six to eight months. I think when you ask that question you are asking for somebody to guess.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: Just on that point I guess I

would just comment that the First Circuit, which is our circuit of federal courts, has just ruled in this matter so they are going to be able to move a little faster than they usually would, in part.

Secondly, I think there is a question legally that whether or not if Calais is not included in Indian territory at the time the lawsuit is filed (if there were one) then it might not be properly included within the order. That is my concern.

I guess that I would just say that I feel so convinced myself of the need in Washington County that I don't want to risk the fact that because we estimated the time wrong or because we weren't right about whether or not they have to be included that we leave them out.

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of the Bill and all accompanying papers. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 352

YEA - Adams, Aikman, Anderson, Ault, Bennett, Birney, Carleton, Clukey, Coffman, Coles, Constantine, Cross, Donnelly, Farnum, Farren, Gamache, Gray, Heeschen, Holt, Joy, Kneeland, Lemont, Libby Jack, Lipman, Look, Lord, Marsh, Marshall, Michael, Murphy, Nickerson, Ott, Pendexter, Plowman, Reed, G.; Robichaud, Rydell, Saxl, Simoneau, Small, Stevens, A.; Stevens, K.; Taylor, Tracy, Treat, Walker, Whitcomb, Zirkilton.

NAY - Ahearne, Aliberti, Bailey, H.; Barth, Beam, Bowers, Brennan, Bruno, Cameron, Campbell, Carr, Carroll, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Greenlaw, Hale, Hatch, Heino, Hichborn, Hoglund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Saint Onge, Skoglund, Spear, Strout, Sullivan, Swazey, Townsend, G.; True, Tufts, Vigue, Wentworth, Young.

ABSENT - Bailey, R.; Caron, Cashman, Dexter, Foss, Hillock, Johnson, Kutasi, Libby James, MacBride, Martin, H.; Nash, Pendleton, Ruhlin, Simonds, Tardy, Thompson, Townsend, E.; Townsend, L.; Winn, The Speaker.

Yes, 48; No, 82; Absent, 21; Paired, 0; Excused, 0. 48 having voted in the affirmative and 82 in the negative, with 21 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by House Amendment "A" (H-1098) in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

Reference is made to (H.P. 1385) (L.D. 1884) An

Act to Ensure Proper Funding of the Department of Environmental Protection (H. "A" H-1088, H. "B" H-1089 and H. "C" H-1090 to C. "A" H-1076)

In reference to the action of the House on Monday, April 11, 1994, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative COLES of Harpswell
Representative ANDERSON of Woodland
Representative GOULD of Greenville

Representative Joseph of Waterville was granted unanimous consent to address the House.

Representative JOSEPH: Mr. Speaker, I was not recorded on Roll Call 329. If I had been, I would have been voting yea.

On motion of Representative Gwadosky of Fairfield, the House recessed until 3:30 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 12, 1994

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Ensure Proper Funding of the Department of Environmental Protection" (H.P. 1385)(L.D. 1884).

The President appointed on the part of the Senate the following:

Senator LAWRENCE of York County
Senator PEARSON of Penobscot County
Senator LUDWIG of Aroostook County

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

ENACTORS

An Act Relating to the Definition of Passamaquoddy Indian Territory (S.P. 780) (L.D. 2010) (H. "A" H-1098)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee (H.P. 1083) (L.D. 1449) (H. "A" H-1063; H. "A" H-1105 to C. "A" H-951)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative PARADIS of Augusta was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the following item which was tabled earlier in today's session:

An Act to Make Statutory Changes to Implement the Recommendations of the Legislature's Total Quality Management Committee (H.P. 1083) (L.D. 1449) (H. "A" H-1063; H. "A" H-1105 to C. "A" H-951) which was tabled by Representative PARADIS of Augusta pending passage to be enacted.

Subsequently, a two-thirds vote of members present and voting being necessary, a total was taken. 101 having voted in the affirmative and 12 voted in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

The following items were taken up out of order by unanimous consent:

ORDERS

On motion of Representative KONTOS of Windham, the following Joint Resolution: (H.P. 1489) (Cosponsored by Representative ROWE of Portland, Senator HARRIMAN of Cumberland and Representatives: BIRNEY of Paris, COLES of Harpswell, CROSS of Dover-Foxcroft, DEXTER of Kingfield, GWADOSKY of Fairfield, HEESCHEN of Wilton, HOGLUND of Portland, HOLT of Bath, KNEELAND of Easton, MARSHALL of Eliot, MARTIN of Eagle Lake, MELENDY of Rockland, OTT of York, PLOURDE of Biddeford, ROBICHAUD of Caribou, SULLIVAN of Bangor,

YOUNG of Limestone, Senators: BRANNIGAN of Cumberland, PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE STATE LEGISLATURES OF THE UNITED STATES TO SUPPORT MILITARY AND CIVILIAN DUAL-USE OF MILITARY FACILITIES

WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the State Legislatures of the other 49 states of the United States, as follows:

WHEREAS, changes in national security interests have caused changes in the status of military facilities in the United States, to include closure, realignment and reduction in mission; and

WHEREAS, future changes are likely to occur that will further impact military facilities in the United States; and

WHEREAS, it is in the national security interest of the United States to preserve defense infrastructure during times of peace; and

WHEREAS, the closure, realignment or reduction in the mission of military facilities can have a long-term impact on national security; and

WHEREAS, the current base closure and realignment process discourages states, communities, workers and businesses from working in partnership to develop military and civilian dual-uses of military facilities; and

WHEREAS, it is in our national interest to address disincentives or barriers to military and civilian dual-use of military facilities, including disincentives caused by current base closure or realignment selection criteria; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge that the State Legislatures of the United States individually convey the issues and concerns contained herein to their Congressional delegations, the House and Senate Armed Services Committees of the United States Congress, the President of the United States and the Secretary of Defense; and be it further

RESOLVED: That the State Legislatures of the United States advocate through their Congressional delegations for changes to the base closure and realignment process to provide incentives for military facilities to undertake military and civilian dual-use initiatives, including, but not limited to, positive military point value being assigned to military facilities that have undertaken dual-use planning to preserve physical infrastructure and workforce skills during times of peace; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Presiding Officers of the State Legislatures of the other 49 states of the United

States.

Was read.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: The Resolution before you and the one on the reverse side of the same paper both have to do with an issues that was presented to you a couple of weeks ago in a conversion briefing that we had sponsored by the Committee on Housing and Economic Development. During that briefing some of you heard a number of the panelist emphasize the need for long-term planning to those communities that are affected by base closures and opportunities for dual-use among both the civilian and military populations in those regions. Those activities presently are discouraged in the base closure procedure that the Department of Defense and the Base Closure Commission uses. In order to bring this attention to other state legislators and our Congressional Delegation we have drafted this Resolution which takes a stand on the importance of communities being able to look at dual-use initiatives.

This in no way undermines communities efforts to retain the bases that are currently open. If you will look at the Resolutions, the primary focus is to continue to look at the importance of military bases even during times of peace as a matter of national security.

I would be happy to answer any questions that this issue might raise. I hope you will join me in supporting the Resolution which we think is a modest proposal but one that may provide some leadership nationwide so that other states that are also affected by the devastation of base closures will be at least able to see some alternatives and dual-use in the civilian and military sectors in order to diminish some of the impact of a base closure should it occur.

We in Maine are in the position of looking at what happened in the area of Pease and more recently at Loring. We are striving hard to make sure that both Kittery/Portsmouth and Bath/Brunswick stay off that closure list. That is the first priority. But, simultaneously, people in those regions need to be able to look at ways to keep that economy vibrant despite the fact that they are working hard to keep the base open.

I hope I have given you a context for looking at both of these Resolutions. I hope that they are not confusing you. One of them, if you will notice, is addressed to Legislatures, the other is addressed to Congress and both deserve your approval.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

On motion of Representative OTT of York, the following Joint Resolution: (H.P. 1490) (Cosponsored by Senator HARRIMAN of Cumberland and Representatives: DEXTER of Kingfield, GWADOSKY of Fairfield, HEESCHEN of Wilton, KNEELAND of Easton, KONTOS of Windham, MARSHALL of Eliot, MELENDY of Rockland, PLOURDE of Biddeford, ROWE of Portland, SULLIVAN of Bangor, YOUNG of Limestone, Senators: BRANNIGAN of Cumberland, CAHILL of Sagadahoc,

CARPENTER of York, PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT
AND THE CONGRESS
OF THE UNITED STATES TO SUPPORT MILITARY AND
CIVILIAN DUAL-USE OF MILITARY FACILITIES**

WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the members of Maine's Congressional Delegation, as follows:

WHEREAS, changes in national security interests have caused changes in the status of military facilities in the United States, to include closure, realignment and reduction in mission; and

WHEREAS, future changes are likely to occur that will potentially affect military facilities in Maine; and

WHEREAS, it is in the national security interest of the United States to preserve defense infrastructure during times of peace; and

WHEREAS, the closure, realignment or reduction in the mission of military facilities may have a long-term impact on national security; and

WHEREAS, military and civilian dual-use planning for military facilities is an effective method to preserve physical infrastructure and labor-force skills; and

WHEREAS, the current base closure and realignment process discourages the State, communities, workers and businesses from working in partnership to develop military and civilian dual-uses of military facilities; and

WHEREAS, it is in our national interest to address disincentives or barriers to military and civilian dual-use of military facilities, including disincentives caused by the base closure or realignment selection criteria; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge Maine's Congressional Delegation to convey the concerns contained in this memorial to the House Armed Services Committee and the Senate Armed Services Committee of the United States Congress, the President of the United States and the Secretary of Defense; and be it further

RESOLVED: That Maine's Congressional Delegation advocate for changes to the base closure and realignment process to provide incentives for communities and military facilities to undertake military and civilian dual-use initiatives, including, but not limited to, positive military point value being assigned to military facilities that have undertaken dual-use planning to preserve physical infrastructure and work-force skills during times of peace; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be

transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: This Resolution is just identical in the wordage as was explained to you by Representative Kontos in the Resolution that we just voted on. The only difference is that this is addressed to the members of the Maine Congressional Delegation whereas the previous Resolution is going to the state Legislatures of all the other 49 states. I urge your passage.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative Gwadosky of Fairfield, the House recessed until 6:30 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 to Provide Funds for Assistance to Maine Businesses (H.P. 1148) (L.D. 1547) (C. "A" H-949) which was passed to be enacted in the House on March 31, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-949) as amended by Senate Amendment "B" (S-639) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Safety Improvements at the Baxter School for the Deaf (S.P. 700) (L.D. 1898) (C. "A" S-538) (Governor's Bill) which was passed to be enacted in the House on March 31, 1994.

OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

April 12, 1994

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-538) as amended by Senate Amendment "A" (S-621) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Training Equipment for the Maine Technical College System (H.P. 1442) (L.D. 1968) (C. "A" H-970) which was passed to be enacted in the House on April 6, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-970) as amended by Senate Amendment "A" (S-642) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Authorize a General Fund Bond Issue in the Amount of \$9,000,000 to Construct Water Pollution Control Facilities and to Investigate, Abate, Clean up and Mitigate Threats to the Public Health and Environment from Uncontrolled Hazardous Substances Sites (H.P. 1392) (L.D. 1890) (H. "C" H-1086 to C. "A" H-963) (Governor's Bill) which was passed to be enacted in the House on April 11, 1994.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-963) as amended by House Amendment "C" (H-1086) and Senate Amendment "A" (S-597) thereto in non-concurrence.

The House voted to Recede and Concur.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

ENACTOR

Resolve, Authorizing the Examination of School Finance and Taxation Proposals (S.P. 776) (L.D. 2003) (Governor's Bill) (S. "A" S-590)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

COMMUNICATIONS

The following Communication:

STATE OF MAINE

To The Honorable Members of the 116th Legislature:

I am returning without my signature or approval, H.P. 1418, L.D. 1932 "An Act to Reestablish a Mechanism for Review of Disputed Elections." In my view, this bill is a step backward in recent attempts at meaningful election reform.

Last year the Maine Legislature amended Title 21-A MRSA to provide that the Maine Supreme Judicial Court shall determine disputed elections and that the decision of the court is final. Senate and House of Representatives elections were exempt from this appeals process. The original draft of L.D. 1932 sought to address this problem by also sending disputed House and Senate election appeals to the Supreme Judicial Court.

The end result of this bill, however, addresses the problem of House and Senate election appeals by reverting primary, general and special elections for all state and federal offices to the Commission on Governmental Ethics and Election Practices.

I believe it is poor judgment to think that the Commission, made up of lay members appointed by legislative leadership, would be better equipped and able to deal with the legal complexities, rules of evidence, and due process in these cases as well as the appropriate interpretation of state and federal election laws.

For these reasons, I hope you will join me in rejecting this piece of legislation.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932) (Conf. Comm. "A" H-1079)

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I am indeed dismayed to see a veto on this piece of legislation. After the "Ought Not to Pass" Report on this bill was accepted I was approached by several members of the caucus and of this body indicating their interest in establishing a mechanism where there would be some review of a disputed election before it came to this body. As you all know, the House and Senate, by Constitution, are final determiners of an appeal. So, there was expressed to me some interest in having a process. With that in mind I did ask for the Committee of Conference and we had a discussion and agreed to return the process that was in place in the past and that was having the appeals go to the Ethics and Elections Commission. This is a very appropriate group to receive these appeals because in fact their

mission is to oversee elections and campaign issues.

There is mention made of the problem of lay-members trying to deal with this issue and I would suggest to you that if those of us as lay-members are able to oversee the writing of the law that the lay-members of the Ethics and Elections Commission are certainly capable of reviewing the appeal and making a decision for us to see.

I hope you will join me in overriding this veto.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Just to refresh your memory as well, this bill originally would have put in place for the House and Senate the same procedure we have for all other elected offices with the exception that the Constitution requires the House and Senate be the final determiner of the members. However, last year when we put that process in place we said that appeals went to the Supreme Judicial Court, we did not put that in for this chamber and the other body. Instead, we left it up to be decided later. We are coming up on an election year and nothing was decided. The Committee of Conference Report returned it to a procedure that we, in our action last year, for every other race moved away from.

I would urge you to uphold the Governor's veto and support a consistent means of having a review for all elected races that not only is consistent with elected office races but is in a policy consistent with what we have tried to do with our efforts least year.

I urge you please to vote against overriding the veto.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I, too, urge you to sustain the Governor's veto. This bill has taken a convoluted course. I am in essence urging this body to vote against a piece of legislation that I submitted, at least the title remains the same. The legislation itself is entirely different, reflecting the action of the Conference Committee. In fact, as was mentioned by the Chair of the Committee, the majority of the Legal Affairs Committee felt we should make a change in the law as originally proposed with some minor revisions. Since this body cannot agree with another body to do that there was a Conference Committee that essentially, as the Chair of the Committee told you earlier, reverted back to the process that existed prior to one year ago.

It seems to me unfortunate that the legislation ended up taking an advance or reform away from everyone else and returning it to a process that many in this body (in fact, most in this body) rejected more than a year ago. It appears to me that we should allow at least other office holders the opportunity to have any appealed elections to go before the Judicial Branch of Government which would in effect be what would happen if this bill should fail.

I think it is unfortunate that it has come to this point but it is a reality that the bill that we passed out of this body only makes disputed election resolution worse for everybody.

I urge you to sustain the veto.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this Bill become

law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 353V

YEA - Adams, Ahearne, Beam, Bowers, Brennan, Caron, Carroll, Chase, Chonko, Clark, Clement, Cloutier, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Hale, Hatch, Heesch, Hichborn, Hogle, Holt, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, G.; Tracy, Treat, Walker, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Hussey, Joy, Kneeland, Libby Jack, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Michael, Murphy, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Stevens, A.; Strout, Taylor, True, Tufts, Vigue, Whitcomb, Young, Zirnkilton.

ABSENT - Anderson, Cashman, Cathcart, Coles, Gould, R. A.; Hillock, Kilkelly, Kutasi, Lemont, Libby James, Lord, Martin, H.; Nash, O'Gara, Pouliot, Ricker, Simonds, Small, Spear, Thompson, Townsend, E.; Townsend, L.; Winn.

Yes, 74; No, 54; Absent, 23; Paired, 0; Excused, 0.
74 voted in favor of same and 54 against, with 23 being absent, and accordingly the veto was sustained.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

April 12, 1994

To The Honorable Members of the 116th Legislature:

I am returning without my signature or approval, H.P. 1418, L.D. 1766 "An Act to Ensure Appropriate and Equitable Penalties for Violation of Election Laws."

Last year, the Maine Legislature went on record supporting stronger penalties for election law violations. If enacted, this bill reverses several of these tougher standards.

Supporters of this bill argue that these changes are necessary to assure consistency with Maine's criminal code. In fact, Maine's criminal code, Title 17-A MRSA Section 702 in particular, assigns severe penalties for tampering with governmental processes. I believe that the penalties enacted in the law last

year are appropriate and balanced, particularly in light of Maine's criminal laws and the laws of other states regarding election violations.

One of the fundamental principles to our democratic system of government is the assurance of free and full participation in our elections. As part of this process, citizens trust that anyone who tampers with the election proceedings will receive the full impact of the law, not simply misdemeanor consequences.

The citizens' faith in this fundamental belief was tested last year. If we learned anything from last year's ballot tampering incident it was that Maine citizens were outraged at both the attempts to alter election results and at what they view as relatively minor penalties served by the guilty parties. I believe reducing last year's tougher penalties for these crimes would be unwise and would again place the public confidence in our electoral processes in jeopardy.

For these reasons, I hope you will join me in rejecting this legislation.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws" (H.P. 1311) (L.D. 1766) (C. "A" H-830)

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: Let me refresh your memory a little bit about what it is that this bill does and why I believed it was important when I looked at it last year and when I presented this bill this year to the Legal Affairs Committee. I did it, actually, from my position as Chair of the Corrections Committee.

We had been looking at penalties and looking at who is in prison and who is not in prison and I have heard a lot of calls from both sides of the isle but making sure that we punish violent people and we make sure those are the ones that are behind bars but that we are not spending \$30,000 a year to keep non-violent criminals in our prisons. I think we have been talking about that both state-wide as well as nationally.

This bill does not in any way, shape or manner change the penalty that the Committee determined was appropriate for ballot tampering, that is a Class B crime, that is not changed by this bill. This public out-cry over the issues that we faced last year has been adequately addressed, I believe, by the committee in the work that they did.

However, when they did that work they also looked at a number of other issues regarding ballots and elections and they made some decisions about the level of criminality of some of these crimes.

When I reviewed it, I felt as though some of them were not in alignment with the rest of our criminal code. However, not being either an attorney or sufficiently familiar with the law, I turned it over

to the Criminal Law Advisory Commission. That is a Commission which has been set up in law by you people to do just exactly that, to look at the laws that we make and see whether they are in appropriate alignment with the rest of the laws and the rest of the penalties. They made certain recommendations, certainly they did not tell us that we must make these changes, that would not be appropriate. They did make recommendations to us and I brought those recommendations to the committee.

Specifically, the bill amends the general penalty section of the statutes in 21A that made it a Class D crime for a public official to knowingly fail to refuse or refuse to perform a duty required of that public official under the election laws. Prior to the law last year it was a Class E crime. This bill repeals the Class D paragraph and reinstates it as a Class E. This is consistent with the crime of official oppression of which this crime is a subset. Here we are talking about public officials who fail or refuse to perform a duty required of that public official. And, if you wonder what one of those might be, some of those duties are things like the notice to file within a certain number of days. If a Clerk misses by one day, the day that unused ballots are supposed to be returned, that certainly should be criminal, but it certainly should not be a Class D crime, that is too severe a level for that type of crime.

This bill also addresses a question of severity of the penalty of adding or removing names from a voting list or a general register without the right to do so. The law, Chapter 473, changed this from a Class E to a Class C crime. This bill adds specific intent of doing so to affect the other persons eligibility to vote and reduces the crime to a Class D crime. Here we are talking about a penalty for adding to or removing names from a voting list.

A Class C crime, which is what the current law now requires, is a very serious felony offense. Class C crimes are workplace manslaughter, gross sexual assault, unlawful sexual contact — those are the types of things that are Class C crimes. I believe Class C — on the fourth OUI if you cause a death or injury, that is a Class C crime. Here we are talking about somebody, without even the intent to change somebody's right to vote being charged with a Class C crime. Not only is that penalty too severe for the crime, but it minimizes those other crimes which are placed in that category. That is one of the problems that I had with it, it does tend to trivialize those other crimes.

The bill also addresses the concern that causing a delay in enrollment or delivery of absentee ballots, if done with intent to prevent that person from voting or to render that persons vote ineffective, again, they ask for that to be a Class C crime. Certainly it is a serious crime, but first we should have an intent in there and, second, it should be a Class D crime.

The bill also inserts the element of intent in several other provisions. We talked about cellular phones. I think you probably remember that one. I think it is important that we have that intent in there to actually affect the outcome of an election. It shouldn't be a crime unless there is an intent to affect the outcome of the election.

The Bill also amends the law regarding tampering or damaging the voting devices, ballot cards or other records. Again, Chapter 473 raised it from a Class D

to a Class C crime, remember workplace manslaughter. This bill retains that classification but it does require the specific intent of engaging in those activities with the intent to change the outcome of an election.

I think that it is clear here that (it was clear to me) I am not sure that it was clear to everybody else but it was clear to me that the intent here is not to say that these are not crimes but simply to keep them in the context of the rest of the Criminal Code.

So, ladies and gentlemen, I would hope that you would take that into consideration as we look at this. When I brought this bill to the Legal Affairs Committee during the public hearing there are a few questions from the committee and during the work session there was no discussion, there were no questions and there was no suggestion that any part of this bill be amended or any section of it in any way be changed prior to the time the vote was taken at the committee.

If there are specific parts of this bill that someone would like to look at, I would be very glad to do that. It appears that we are at kind of a late stage for that. I would hope you would vote with me on this matter.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I urge the House to vote no and sustain the Governor's veto on this measure.

This is the bill, as Representative Larrivee pointed out, which makes sweeping changes to the Election Law reforms passed in this legislature just last year. The proponents have pointed, in previous debate before this body, to a minor provision to the bill which changes the law regarding the use of beepers at the polls. But, as I pointed out then, this measure is far more than just a beeper bill.

The Criminal Law Advisory Commission did not even make firm recommendations regarding many of the changes of this bill. They raised questions and concerns and didn't specifically make recommendations for many of the changes that this bill would impose.

Our Criminal Code is filled with inconsistencies and perhaps it is the penalties for the other crimes that Representative Larrivee refers to that need to be stiffened. I believe that it is inappropriate to start eroding with the needed changes we enacted just last year.

Representative Larrivee also speaks to the issue of the work session in committee where this bill was voted on and that work session (to my recollection) lasted about ten minutes because I was making a phone call and arrived late and the bill had already been acted upon at about 1:10 in the afternoon, when the work session began at one o'clock. We need to restore people's faith in our democratic process and in my view this bill does just the reverse.

I urge you to vote no.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: First of all, this was a bill that came out with a Majority "Ought Not to Pass."

Second of all, I think we must remember that voting is our most crucial right in this country. It is our right and our ability to vote that affects every other action that we do, we are a government by

the people, for the people and we the people do control. It is important that we protect the system by which we exercise our right to vote. That is not only through having high penalties for ballot tampering but that is in having adequate penalties for preventing a person from voting or getting their name on the voter list. These may not have the high drama of ballot tampering but they still have the same affect. They would in some way be disenfranchising voters. I think they are serious enough to warrant the penalties that we, as a legislature, placed on them last year and I would urge you to vote no and to be consistent with the majority of the Legal Affairs Committee in this vote.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this Bill become law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 354V

YEA - Adams, Ahearne, Beam, Bowers, Brennan, Caron, Carroll, Chase, Chonko, Clark, Clement, Cloutier, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Hale, Hatch, Heeschen, Hitchborn, Høglund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Martin, J.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Rand, Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Hussey, Jalbert, Joy, Kneeland, Libby Jack, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Michael, Murphy, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Strout, Taylor, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

ABSENT - Anderson, Cashman, Cathcart, Coles, Erwin, Gould, R. A.; Hillock, Kilkelly, Kutasi, Lemont, Libby James, Lord, Martin, H.; Nash, O'Gara, Pouliot, Ricker, Simonds, Spear, Thompson, Townsend, L.; Winn.

Yes, 73; No, 56; Absent, 22; Paired, 0; Excused, 0. 73 voted in favor of same and 56 against, with 22 being absent, and accordingly the veto was sustained.

SENATE PAPERS

Non-Concurrent Matter

An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws (H.P. 665) (L.D. 903) which was Passed to be Enacted in the House on April 5, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-953)

Came from the Senate, Passed to be Engrossed as

amended by Committee Amendment "A" (H-953) as amended by Senate Amendment "C" (S-645) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Improve Environmental Protection and Support Economic Development under the State's Land Use Laws (H.P. 1100) (L.D. 1487) which was Passed to be Enacted in the House on March 31, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-942)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-942) as amended by Senate Amendment "A" (S-600) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Make Modifications to Economic Development Activities (EMERGENCY) (S.P. 552) (L.D. 1576) which was Passed to be Enacted in the House on March 10, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-422)

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-611) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Clarify Maine Election Laws (H.P. 1201) (L.D. 1609) which was Passed to be Enacted in the House on April 8, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-947) as amended by Senate Amendment "A" (S-557) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-947) as amended by Senate Amendments "A" (S-557) and "B" (S-612) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act Concerning Level I and Level II Educational Technicians (H.P. 1212) (L.D. 1631) which was Passed to be Enacted in the House on March 24, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-811)

Came from the Senate, Passed to be Engrossed as

amended by Committee Amendment "A" (H-811) as amended by Senate Amendment "A" (S-604) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Establish the Debt Service Limit for Fiscal Year 1997 and Fiscal Year 1998 (S.P. 601) (L.D. 1699) which was Passed to be Enacted in the House on March 22, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-430)

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-610) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Strengthen the Maine Bottle Deposit Laws (H.P. 1343) (L.D. 1810) which was Passed to be Enacted in the House on March 28, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-839)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-839) as amended by Senate Amendment "A" (S-605) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Create Retirement Alternatives (EMERGENCY) (H.P. 1362) (L.D. 1841) which was Passed to be Enacted in the House on April 8, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-867) and House Amendment "A" (H-972)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-867) as amended by Senate Amendment "A" (S-606) thereto and House Amendment "A" (H-972) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Provide Funding to the Maine Criminal Justice Commission (EMERGENCY) (H.P. 1370) (L.D. 1854) which was Passed to be Enacted in the House on March 10, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-770)

Came from the Senate, Passed to be Engrossed as

amended by Senate Amendment "A" (S-609) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Correct Certain Inconsistencies in the Laws Relating to the Commission on Governmental Ethics and Election Practices (H.P. 1380) (L.D. 1867) which was Passed to be Enacted in the House on April 8, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1026) as amended by Senate Amendment "B" (S-585) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1026) as amended by Senate Amendments "B" (S-585) and "D" (S-646) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Establish a New Valuation on Sears Island (EMERGENCY) (S.P. 703) (L.D. 1900) which was Passed to be Enacted in the House on March 24, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-451))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-451) as amended by Senate Amendment "A" (S-608) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Amend the Structure of Veterans' Services (S.P. 583) (L.D. 1627) which was Passed to be Enacted in the House on March 1, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-397) and Senate Amendment "A" (S-411))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-397) as amended by Senate Amendment "A" (S-623) thereto and Senate Amendment "A" (S-411) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Modify the Taxation of Leases on Automobiles (S.P. 545) (L.D. 1570) which was Passed to be Enacted in the House on March 31, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-527))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-527) as amended by Senate Amendment "A" (S-625) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Resolve, to Establish a Commission on the Future of Maine's Paper Industry (EMERGENCY) (S.P. 773) (L.D. 1996) which was Finally Passed in the House on April 7, 1994. (Having previously been passed to be Engrossed as amended by House Amendment "A" (H-1048) and Senate Amendment "A" (S-582))

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-582) as amended by Senate Amendment "A" (S-624) thereto and House Amendment "A" (H-1048) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Establish a System of Performance-based Agreements for the Provision of Certain Social Services (H.P. 1284) (L.D. 1732) which was Passed to be Enacted in the House on March 22, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-794))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-794) and Senate Amendment "A" (S-630) in non-concurrence.

The House voted to Recede and Concur.

SENATE PAPERS

Non-Concurrent Matter

An Act to Implement the Recommendations of the Health and Social Services Transition Team (EMERGENCY) (H.P. 1330) (L.D. 1793) which was Passed to be Enacted in the House on April 6, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1008))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1008) as amended by Senate Amendment "B" (S-644) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

An Act to Establish the Maine School of Science and Mathematics and the Task Force on the Maine School of Visual and Performing Arts (S.P. 733) (L.D. 1958) (Governor's Bill) which was Passed to be

Enacted in the House on April 7, 1994. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-511) as amended by House Amendment "A" (H-1054) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-511) as amended by House Amendment "A" (H-1054) and Senate Amendment "A" (S-629) thereto in non-concurrence.

The House voted to Recede and Concur.

By unanimous consent, all matters having been acted upon were ordered sent forthwith to engrossing.

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1488)

Resolve, Establishing the People with Disabilities Access Commission (EMERGENCY) (H.P. 1321) (L.D. 1783) (H. "A" H-1074 to C. "A" H-894)

- In House, Finally Passed on April 8, 1994.

- In Senate, Finally Passed on April 8, 1994.

On motion of Representative FARNSWORTH of Hallowell, under suspension of the rules, the House reconsidered its action whereby L.D. 1783 was finally passed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby the Resolve was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-894) was adopted.

The same Representative presented House Amendment "B" (H-1111) to Committee Amendment "A" (H-894) which was read by the Clerk and adopted.

Committee Amendment "A" (H-894) as amended by House Amendments "A" (H-1074) and "B" (H-1111) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-894) as amended by House Amendments "A" (H-1074) and "B" (H-1111) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

Representative STROUT of Corinth moved that the House extend until 10:00 p.m.. Pursuant to House Rule 22 a vote of the House was taken.

82 voted in favor of the same and 27 against, the motion to extend did prevail.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1110) on Bill "An Act to Amend the

School Funding Formula" (H.P. 682) (L.D. 924)

Signed:

Senator: O'DEA of Penobscot

Representatives: PFEIFFER of Brunswick
PINETTE of Fort Kent
STEVENS of Orono
OLIVER of Portland
MITCHELL of Vassalboro
NORTON of Winthrop
SIMONDS of Cape Elizabeth

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: LAWRENCE of York

Representatives: SMALL of Bath
CLOUTIER of South Portland

Representative AULT of Wayne - of the House - abstaining.

Reports were read.

Representative MITCHELL of Vassalboro, moved the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I know the hour is late but this is probably one of the most important debates we will have. I will try extraordinarily hard to keep us focused and to the point.

One thing that I had hoped for, more than anything else as the Chair of the Education Committee, was to avoid the battle of the printouts and what I have seen happening here in the past hour, thought I know it is very natural, and, I know that we all do it and I know that we have to before we can make some policy decisions. My position has been (as we have struggled through this very difficult time on the Education Committee) that every school in Maine is hurting. All towns are hurting and that we are all in trouble together.

I don't believe in finger pointing, I don't believe in your district is better off than mine, or your district is worse off than mine but rather I hope that we can conduct this debate on a much higher plane about where we are in education today and why the majority of our committee recommended a certain way of funding or distributing the funds that we have available for our schools.

Before I do that I would like to walk you, very briefly, through the other parts of the amendment and I know there are others on the committee who would like to speak to those issues.

Primarily, the amendment deals with how we distribute the amount of state aid that we have for this year. But, it also establishes a committee to study the organization and the tax issues in public schools, and provides an appropriation from the General Fund for that purpose.

Many of us feel that a fundamental look by people outside of this legislature, outside of task forces,

but people more on the level of true states people with no vested interest need to look at how we organize our schools and how we fund them.

As a matter of fact, I was almost tempted this year but there wasn't enough time to discuss it with you to repeal the property tax base all together as a method of funding our schools. Then, two years from now have another plan in place. I really think it is time to look at some really radical approaches at how we go forward and the commission can look at that issue as well as how we organize ourselves and see if there are efficiencies in how we organize ourselves.

In addition, we have some monies with the concurrence and the work with the Department of Education on how to fund that mandated Child Development Services. As you recall, those are preschool handicap children with mandate federal program and the money can come from the audited construction account as that money becomes available. This was crafted by the Department as a way to meet their responsibility. We are also able to deal with some emergency issues from Baxter in that same way. But, all of that is part of the amendment.

That is not what you wanted to talk about tonight, I know.

I am going to spend just a few minutes with you talking about where we are and I think it is important, even though the hour is late. If you haven't read yet, please do, the analysis of resources and programming under Budget Scarcity in Maine Schools. This comes from the Muskie Institute by Dr. Josephine LaPlante because we asked here to do some surveys to find what is really happening in our schools out there. I think this background is important to keep us out of finger pointing and pitting district against district because the assumption is (from this report) that all the districts have suffered and how do we move forward from here.

One thing I don't need to remind you of, but, these numbers speak volumes. As the state has been forced to cut back due to revenue shortfalls of our own the amount of money that we spend, local school districts increase their spending by \$92 million between 1990 and 1993 for inflation adjusted interest of \$35 million. So, the need to spend money didn't go away just because we were broke or short of cash at the state level but local people had to dig deep to try to make up the differences and they also cut programs. In inflation adjusted 1989 dollars we are currently spending less than needed to replace one book per year for each secondary student, with nothing remaining for the acquisition of library books or periodicals. Equipment has fared even worse between 1990 and 1993, the secondary per pupil expenditure for equipment was reduced by nearly one-half. That is a pretty frightening thing in an era of exploding technology and trying to teach our young people to be prepared to compete in a world economy. Between 1990 and 1993 per classroom expenditure for equipment, books and supplies declines by \$600 per classroom.

Over 40 percent of the respondents in the survey conducted by Dr. LaPlante indicated that the conditions of the textbooks were only fair or poor; 35 percent said the sufficiency of them would be fair and poor; and 50 percent of the respondents indicated that sufficiency of supplies was fair or poor; and more than 75 percent said equipment was fair or poor.

I won't bore you with more details of this book. I share it with you to say that we have all been in this decline together and we have seen it either through increases in our local property tax or shortcomings in the local schools as we tried to keep up with the difficulties of the past few years. With that premise that we are all in this together.

If you will review the handout I gave you yesterday (it seems like two years ago) explaining a little bit of the history of the formula and that the law established the states share at 55 percent (and of course we didn't have it) so the 630 that we would have put in, had we been able to do so, was reduced and we have been struggling to get it up here at the legislative body for the past week or so or longer. Since we are over \$100 million short of what would have been the states share, had we been able to do so, a percentage cut has already been taken.

I tried to explain that to you as well. The schools have all already been hit when we dropped from 630 to our available revenues. So, let's start with that premise as well. The more dependent you are on the state for subsidy to run your schools the bigger the hit. It doesn't take a lot of thinking to understand that but I want that before you as we go forward.

I also want you to understand where I have been coming from throughout this. It would have been very easy for me, early on, particularly when it was suggested by people in high places that why don't we just freeze everybody where they were last year until we can figure out how to move forward with a better system.

As you all know that has some appeal, unless you think about it for a moment and the appeal is to all those schools who are scheduled to lose subsidy. That appeal is that if we freeze then we lose nothing. But, the problem with that is that those who need to gain money are also frozen and they are totally ignored. So, it is not the proper solution and I have not supported that. Nor have I supported any distribution method that favors losers over gainers or gainers over losers. What the majority of our committee brings to you today is what we believe is the fairest for everybody in the state.

Now we can all do printouts. Our committee didn't even print them, we didn't have to. Distributed to you was a printout suggesting another plan which, quite frankly, my committee never had a chance to look at or debate. I saw this printout as you did, for the first time today. I have had a chance to look at it as I am sure you all have. I understand everybody has been running around, "Oh, I do better under this one." "I do better under that one." Well, let's stop and think for just a minute about why we are here and what we are all about. Obviously you have to be concerned about your district, I understand that. But you can also step back for a minute and be concerned about all the kids in the state if you accept the premise that everybody is hurt and that we are willing to say that all schools who are scheduled to gain are going to get 60 percent of that gain. It is very simple, if you are scheduled to gain \$100,000 in additional subsidy, you will get \$60,000. If you are going to lose \$100,000 in subsidy, state subsidy, you will lose \$40,000. Losers continue to lose, gainers continue to gain. And, if I had \$100 million we wouldn't be having this debate. That is what has caused the debate.

I look at the green sheet. You are supposed to

say that if my town is on here I should not vote for 60/40. Well, I don't believe that that is the way many of you are going to make your decisions. Some of you might have to, but most of you won't.

I was intrigued to see if you look at Isle au Haut the difference in one plan versus the other, if they are against my plan, if they vote against 60/40 they will get 82 more dollars. If Lake View votes against this plan they will get 69 more cents. If Nashville Plantation votes against this plan they will get \$19, Rangeley Plantation - \$21, Upton - \$35. Sometimes the differences are huge, sometimes they are small. So, put it aside for just a minute and you might also note I didn't print one of these but some of you don't find your towns on this one do you? The reason you don't is because we didn't do it that way. We applied the same standard to gainers that we applied to losers. We did not favor a plan that allowed gainers to gain up to 90 percent of what they planned to gain. We will be talking a little bit more about that later.

At this point I would urge you, urge you, in the spirit of fairness for all kids in all communities to go forward with doing the best we can with the limited amount of money that we have.

While you are reading Josephine LaPlante's book, I want you to notice the schools in that book who were unable to provide, even with their current funding, adequate education today. I ask you, do you want to make it worse. I know all of you will say no to that question. But, if you vote for anything other than the 60/40 plan, which is as about as fair as you can get, then you will be hurting schools and kids across this state. It is one state and they are all our kids.

I would like to remind you that it is our committee, the majority of our committee, insistence that we couldn't go home with \$1 million in the Governor's budget that got you here tonight to be talking about \$7 million. It was our fight for a fair distribution method that got you where you are tonight so I would encourage you to continue to support increased funding and the fairest method that I can come up with, that the majority of my committee can come up with, with \$100 million shortfall in state support for education.

Subsequently, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-1110) was read by the Clerk.

Representative CLOUTIER of South Portland presented House Amendment "B" (H-1114) to Committee Amendment "A" (H-1110) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: It has been a very rough week for all of us in many ways. I stand before you this evening and ask you to support House Amendment "A." This amendment contains the 2.37 stop-loss plan sponsored by Senator Amero, Senator Lawrence, Representative Small and myself, who are the Minority Report.

I would like to identify this issue. Basically what this issue does is tells us how to best provide relief to communities that will receive reduced GPA for education next year. By supporting the 2.37 plan I mean no disrespect to colleagues who support 60/40 nor to our respected House Chair, the good

Representative from Vassalboro, Representative Mitchell. We are all frustrated from trying to solve a problem that goes far beyond the jurisdiction and power of the Education Committee and its Chair.

I feel very strongly this evening that if we had a House full of Einsteins this issue could not be resolved in the short period of time that we have left.

One solution might be to move the good Representative from Vassalboro up, by moving her down one floor. But, rumor has it that a number of people have already submitted their resume for that job.

Why do I believe that 2.37 plan is the best way to provide hardship relief for losing communities? Well, the key points are this plan targets our limited funds to those communities who will be hit the hardest, stops their loss of state funds when that loss reaches 2.37 percent of their total operating budget. The 60/40 plan protects every losing community regardless of how big or how small their loss is.

I ask you to please look at some of the losing communities and see how small their loss is and how the 60/40 plan still gives them more money. The 2.37 plan sends that money to communities with big losses.

Point two, gainers are giving up some of their gain to help cushion the losses, just like they did last year. We have compromised with a 60/40 proponents by taking money from the gainers to increase funds available for their losses. No one will get an increase that exceeds seven percent of its total operating budget. Communities that gain less than seven percent will keep 90 percent of their gain and give up 10 percent.

The third point I would like to make is the 2.37 plan protects the 38 communities who receive money through the minimum state subsidy. They will keep the small amount they now receive.

My good friend and colleague, Representative Mitchell, stated in a paper, "Your school or mine or what about the children." In the opening remarks of that statement she stated, (and I agree with her so much) "that Maine School Funding Formula, once a national model for tax equity and fairness, fell prey to difficult economic times and to ill-conceived attempts at improvement."

My question is how long will the low receiving school districts function on less state aid than the School Funding Formula designates as their fair share in order to spare the communities from loss?

A full return to the formula was promised by lawmakers last year, that was a unanimous committee vote. We switched paddles in the middle of the stream.

I ask my colleagues to maintain the 50/50 split that we agreed to last year as we move back to the school funding formula. I believe that that promise should be kept.

We are all caught up in the numbers crunching and the adrenaline rush of the session final days, I believe that we can still do the right thing. The promise that we made to each other last year, a return to the formula, cushioned by emergency help, still waits to be kept.

When todays low receivers were losing state aid every year I would have given my eye teeth for the 2.37 plan. I ask you, ladies and gentlemen of the House, to keep your teeth and give us a vote. We have treated you fairly for six to seven years. The low receiving districts are still giving, they have

taken a hit by reducing the amount of funding to support other school areas and we continue to do that even on the plan that has been circulated tonight.

I ask you to take a look at that.

We have paid dearly for the last six to seven years. We can no longer ask the elderly to be taxed out of their homes either. We treated you fairly, we ask for fairness in return.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, I move that House Amendment "B" (H-1114) to Committee Amendment "A" (H-1110) be indefinitely postponed.

Certainly I do appreciate the efforts and the thoughtfulness of Representative Cloutier and one thing I will say about our committee, I am anxious for this to be over so we can sit down together and enjoy one another as we have for two years. Nothing that we are saying tonight is personal, we are all trying to deal with a difficult issue as best we can and I do indeed appreciate his kind remarks.

Let me explain to you why I move to indefinitely postpone this amendment. This is the one that I can now talk about, this is the one that was distributed to you from Senator Amero, Representative Cloutier, Senator Lawrence and Representative Small. You had it on your desk dated April, 11. It has printouts attached. I want you to understand how it works and how under the principle that I laid out for you in my first talk, it doesn't fit. What happens under this proposal is you have mixed two concepts together as an attempt to target. When we are talking about you cannot exceed seven percent, we are talking about of your total school budget, both what you raise at home and what you get from the state. But, the other issue is you can receive up to 90 percent of what you were scheduled to gain from the state. If you are looking at page one, Cape Elizabeth is a perfect example of that, they will receive 90 percent of what they were scheduled to gain if we did nothing.

For those schools that were scheduled to lose if we did nothing for the formula, if you look at Brewer, its total budget, for example, was not enough to keep it from falling through, so Brewer continues to lose, it is left behind as is Augusta, as are a number of SAD's because they did not hit the magic number for percentage of total budget.

Even if you were almost there and you missed it by a percentage of a point you would not get any kind of help.

As I said in my first premise, I am trying to treat both sides evenhandedly and as fairly as possible, recognizing that all schools are suffering and that is why I cannot support a plan which favors gainers more than it does losers. I don't think that it would be very fair to do so if you understand that they are all in pain as we are going through this time of coming out of the recession.

One thing, and my committee has heard me say ad nauseam, and I apologize to them, you really can't say that we have returned to the formula. If you are not putting the money in on one side as is dictated by the formula, if you ignore that piece, then you try to run what little bit you have left backwards, it is not going out in a very fair way.

I look forward to the time, Representative Cloutier, when we can have a formula which recognizes all those problems and we do fund it properly. It is reluctantly that I must disagree with my good

colleague on the Education Committee and encourage your indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do not indefinitely postpone Representative Cloutier's House Amendment "A."

The difference between the Majority 60/40 report, which is son of 70/30, and the minority hardship report involves the distribution of the General Purpose Aid. The Majority Report looks at all the districts and if you are receiving an increase in GPA this year, over last year, you are a gainer, a winner. If your subsidy decreased you are a loser.

The Majority Report disregards the reasons why a school district state's share goes up or down, which could be an increase in local valuation or a decrease in school enrollment and looks only at the state's portion of the school budget. It is a simplistic formula. All gainers give up 40 percent of their increase and all losers keep 60 percent of the decrease.

The Minority Report, the one we are debating now, instead protects the districts most severely impacted by the decreases and distributes the money to the districts losing a higher percent of their total school budget. Then, the Minority plan takes the additional dollars allocated to GPA, caps all gainers at seven percent of their total budget and takes ten percent of every gainers increase to target money to the most severely hit districts.

Unlike the Majority Report, which takes 40 percent from every gainer, we only take ten percent. But, we are allocating all of the additional \$7 million that has been found for GPA to the losers. We are not getting off that money.

We were told in committee we were not taking a big enough hit. I would accept that if it weren't for the other side of the equation of local share. We have been hit so hard in Bath we are black and blue and frankly keeping all of our increase in the state share would only mean that we would lay-off less teachers.

We, at home, are facing a \$1.6 million cut in our local school budget. That is over 15 percent of our local school budget, that is because of decreased valuation in our community.

This is with also an anticipated 15 percent tax increase. Frankly, I can't afford to be more generous without state subsidy. But, we can make the money that we do have go further. We can spend it wiser. Instead of giving everyone a check, we only help those districts losing more than 2.31 percent of their total budget. If you could go back to my community and tell them that we were only losing 2.31 of our entire school budget there would be dancing in the street. It is like the circuit breaker program that we have, we don't give every property taxpayer one-tenth of one percent of rebate on their property taxes that they pay in, we target those who pay more than seven percent of their income in property tax. It would be nice to help everyone but with less money we target those who are most severely hit. Frankly, some people just missed that program as well. Some peoples income might be over \$25,000 by maybe \$1 and they are not eligible or they might have paid just under that cut-off. But, we have to have limits whenever there is a finite amount of money.

Please take an honest look at the green printout

and see if your district is listed. If you are scheduled to receive more money this year than last because of the increase in enrollment or decrease in valuation, you will do better under our plan. If you received a significant decrease in state subsidy you will also be on our list because we allocate the money to the districts that are losing the largest portion of their budget. If you are losing less than 2.31 percent of your total budget you won't be on our list because hopefully your increase in local valuation will enable you to make up the cut in state dollars. I know that won't happen in every situation, I know that is a flaw of each plan because we weren't able to target that money individually to districts. But, I don't think anyone in here would want the Education Committee sitting and deciding who would get what on a case by case basis.

Our method is not perfect, there are losers who deserve more money, gainers who could do with less but there are exceptions with both plans. What the Minority Plan does do is keep the formula in tact. It allows for increases and decreases in the local ability to pay and then targets the monies available to areas, particularly in Eastern and Northern Maine which are struggling despite their increase in local valuation.

I hope you will accept House Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: As many of us know 81 high receiving schools units have brought suit against the States Department of Education. They claim that there have been six reductions in school funding since 1991, that the burden of these reductions has fallen disproportionately on high receiving units and that this represents violation of the equal protection clause of the Maine Constitution. Whether six reductions of this kind can be substantiated and whether this rises to the level of an equal protection claim, will be determined by the Superior Court after oral argument this Thursday. What is clear is that the high receivers, the poorest units, have born a very heavy burden over the past four years.

The Education Committee has recognizes this problem and has been working all Spring to address it, to give the greatest relief to the poorest units and at the same time to minimize necessary reductions in added funds for the more affluent units.

As we all know, there are an almost infinite number of variables that could be considered in trying to work out a formula that provides both pupil equity and taxpayer equity. This can include the number of pupils in the unit, property tax levels, state valuations, per capita income, special ed costs, transportation costs, unemployment levels and geographic factors to name some of them.

No formula has yet been devised to rationalize all the variables. This is a problem with which most states are wrestling with today. Absent an overall solution, the Education Committee's objective has been to help the losers by holding losses to 40 percent of what they would otherwise lose under the recommended funding level. By funding that allotment with a portion of the \$7 million so far identified as being available, plus the amount we have held from the gainers, under the provisions limiting gains to 60 percent. This in effect puts more than \$7 million

to work to benefit the units most in need, considerably more than the ten percent provided in the scheme represented by House Amendment "B."

It is the best judgment of nine members of the Education Committee that the 60/40 ratio is the best solution to this difficult problem. I therefore urge you to vote to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: It was about a year ago that I got up to speak on this subject with such enthusiasm I addressed neither the Speaker nor you, my colleagues, and blurted out a message and didn't understand what was wrong until I sat down. In the mean time I have regained my composure and the problem, however, is just as vexing.

I want to tell you that in fiscal year 1991, '92, '93, '94 and now '95, we are not putting up the number of dollars on the state side of this formula and in that period of time the formula has become nonfunctioning. It is unfair as can be. It has things that tend to be indicators of equity but nothing that really points to equity.

Here is the thing that threw it out of whack again, 47 percent of that \$100 million plus, that hasn't been forthcoming on the state side of the ledger has been put in by the locals, dollar for dollar. Now, that alone would throw it out of whack so badly that if it were a tire it would be square. There is no formula to go back to, there is no formula, it is a blue goose, there is nothing there — it has indicators.

Many of the small amounts saved have been gone over by the Chairman of our committee and they are on there in as large a print as those that save more. But, I will tell you the conversation that I chose to make today to one of the largest losers under the 60/40 plan. That district loses \$73,460 and that superintendent said we must do it because it is so much less than we were scheduled to lose and because it looks after the majority of the State of Maine I can't be so provincial to sit here and say you shouldn't do it even though I realize it is costing us large dollars and for every selfish reason I should say go with the other plan.

I talked to her further and she said, "I have attended many of your meetings, I know the problem." She said, "Fix it for good, get a formula. There is nothing to go back to." That is what we need to put our efforts in.

I also said, a year ago, when the so-called two year deal was announced. I said we can struggle by this first year but the second year it will never happen. We tried. We had a committee that tried hard but we could not solve the problem in that year and it wasn't lack of effort. There was an unpaid group of people, volunteers if you will, from all over the state. I have an idea that we need to have a report issued such as the Jacobs Report that was done just prior to the Sinclair bill and that was done by outside consultants.

I believe either that has to happen or we join the 23 other states who have been reviewed by the court, all found wanting and I am telling you Maine will not be the exception. So, it is with some reluctance but a feeling of conviction that I ask you to indefinitely postpone this proposed amendment.

Representative SMALL of Bath requested a roll call on the motion to indefinitely postpone House

Amendment "B" (H-1114) to Committee Amendment "A" (H-1110).

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Oliver.

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: We have a compromise before you, a 60/40. No one is a winner. We feel very pleased at this point that we are up to \$7 million.

If you ask any member of the committee what \$7 million means, it means you stop the bleeding. It is not adequate support for public education. It does not take us back to a formula. It does not create student equity. So, the tragedy tonight is that we are forced to compromise. The good news is the \$7 million.

But, one of the things that has disturbed me the most in sitting on what I consider a very fine and compassionate Education Committee is the confrontations we set up when we deal with education policy. We pit the retirees in our towns against the young families. We pit the towns who are rural against urban. We pit the high receivers against the low receivers. We pass budgets three and four months after the towns have already set their budgets. I can go on and on to the negatives. We are trying to address that with part of this bill. It sets up a commission, now called the committee, I liked the word commission better. I called it the Omar Commission, but it is now committee. The committee is designed to take that hard look that we have not had the time or the political courage to take, to look at the way we fund our school systems. To look at the very tough political fight that we would have to go through with consolidation, to look at restructuring our school systems since we completely retreated from that, and to look at the way our children learn and the resources we have to supply for them to learn.

So, this bill does give a committee that will be charged to take the hard look, but at this point I beg of you to go beyond the parochial interests.

I sat on a committee whose members had to do that, that is what compromise is about. Compromise is putting something of yourself on the table. Compromise is listening to the other side. We really listened on the Education Committee and I would like to share with you a few of the thoughts that we heard.

We had phone calls, we had letters and we had some searing testimony that talked about losing their art program, their music program, their in-service training. Rural kids who need aspirations losing all their field trips. That's tragic.

We heard about maintenance with buckets. There is no preventive maintenance taking place in many of our school systems. Only crisis repairs. It is almost like we have turned our education system, as we dismantle it, into a third world country. Having been a Peace Corps volunteer I almost feel that maybe we should ask for help with the Peace Corp. We have got to stop and the 60/40 amendment does not solve the problem. This 60/40 amendment says that at this time we are going to send some hope out to the educators. At this time we are going to send some hope out to the parents who want the kids educated. At this time we are going to do the best we can to stop the bleeding, stop the hemorrhage and move on.

I have had so much talk this time about economic development. We all are in favor of it — and we are passing laws to complement it. But, I ask you, what business or industry would look to expand or invest

in a state that is dismantling their public education system? They need trained workers, workers that can think analytically. Workers that can solve the changing problems that technology presents. They also need a public education system that allows them to encourage and recruit the professionals that they need to come to areas that may be rural but have good public education systems. So, this is not the best of plans, the best of plans is to fund adequately the certifiable cost of education. We are not doing that tonight. What we are doing is trying very hard to come to a compromise that stops the bleeding and that sends the message of hope.

I hope you vote to kill this amendment and that we can go on to pass a plan that gives us a commission to study those areas we must study, fund the CDS programs that create a data base for education, the first information system that we will have to make intelligent decisions and does not divide us as a community. The majority of educators, professional educators in the State of Maine are behind this plan, it comes with a nine to four vote from the committee. It may be very difficult for you to vote for and we will respect that.

I hope that you can vote against this amendment and go on to vote our report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: I fear because I am going to vote against the pending motion that I have been scolded here today. I didn't want to rise and speak on this issue but I feel compelled to at this point. A year ago — the word compromise has come up tonight — we did reach a compromise a year ago, it was called the 50/50 compromise. I thought it was a compromise then and we all agreed then it would return to the formula. We knew then (as we know today) that there was not going to be enough money to fund that formula. We knew that we were not going to get \$100 million but we agreed that we would return to the formula.

Tonight we are asked to (instead of returning to the formula) to this 60/40 compromise. I just feel that when property taxes in Southern Maine were rising and our subsidies were falling there was no safety net, no one was concerned that our valuations were rising and our subsidies were falling. Now the show is on the other foot and as valuations continue to fall and we are supposed to gain in subsidy, which we are not, we are faced with the loss of teachers as those communities that are losing revenue are faced with the same challenge that we are.

I think communities are being asked what do you do? Do you keep the program or do you eliminate it? I think that is what they have school boards for and town councils when they prepare their budgets, they say no, we are going to raise taxes, so the property taxes go up and we pay for those programs if the community wants them. I think in just voting

tonight, not knowing of any substantive changes that will take place in the school funding formula, either cutting administrative costs or cutting some expenses that next year, those of us who hope to be back and will be back won't be looking at another compromise with nothing being resolved.

Tonight, although I really appreciate all the work that the Education Committee has put in and everything that is said here tonight, I will be supporting the good Representative from South Portland, Representative Cloutier's amendment.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: Just a brief, short message at the end of this long day. We have all talked about fairness and we all know the inequities of education funding. All of us have been losers. I tell you right now that this plan that we are proposing tonight, Committee Amendment "B," is the fairest of plans. A distribution formula that penalizes school districts with high property values is undermining the financial stability of districts that lost money this year and stand to lose money next year. It is fundamentally unfair to subsidize communities which have made low tax effort in support of education at the expense of others which need to be relieved of the property tax burden imposed on them under the current funding formula. Under Committee Amendment "B" you have 156 gainers, under the 2.37 plan, that is 55 percent. Under the 60/40 plan you have 129 gainers, that is 45 percent. It is very very sad to stand up and put it in those terms but that is where we are at. We have to look at the list. I looked at the list, that is why I am on the Minority Report. I think this is the fairest plan for everyone and I urge you to vote against indefinite postponement and vote for House Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: As the biggest loser on the subsidy plan this year I would just like to make a few remarks. It seems that everyone wants what is fair. Well, what is fair in this state at this point is up to your own judgment. I don't want to disagree with any of my colleagues here but I think that the fairest thing for all the citizens would be that we would be willing to share evenly what little bit we have.

I have students in my district who will be without teachers next year no matter what is done tonight. I would ask that you would indefinitely postpone this amendment even though I would be a little bit of a gainer under this.

I have talked with the superintendent of my district, I have talked with teachers, I have talked with members of my community. They feel, yes, it is going to be devastating to our community to lose \$1.2 million. It would be devastating to lose \$400,000 or \$500,000 but it would be fairer to those surrounding districts if we took a hit and they gained a little bit more.

I ask you please vote for the indefinite postponement on this amendment.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, I would pose a question through the Chair to the sponsor of the amendment.

Is it the intent of the sponsor of this amendment there will be no commission to study a way out of this problem in the future? Does your amendment kill the study?

The SPEAKER: Representative Mitchell of Vassalboro has posed a question through the Chair to Representative Cloutier of South Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative CLOUTIER: Mr. Speaker, Men and Women of the House: In no way, as I said in committee this week (or was it last week), I believe that we have to have a Blue Ribbon Commission on education funding. I think that is probably the prime and foremost thing that we should be doing right now. It is probably of utmost urgency in the State of Maine so that a debate like this will never ever take place again. I believe it pains everyone to be standing up and addressing such a hurting issue for all of us when we are all losers. In no way do I purport to destroy anything that would help our children in the State of Maine. It is up to us at this point to look at where we can go from here, to be progressive enough to expand our minds into a formula that will be consistent and working like that of the funding formula of yesteryear.

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of House Amendment "B" (H-1114). Those in favor will vote yes; those opposed will vote no.

The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Campbell of Holden. If he were present and voting he would be voting yea, I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Swazey of Bucksport. If he were present and voting he would be voting yea, I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Lemont of Kittery. If he were present and voting he would be voting nay, I would be voting yea.

The SPEAKER: The pending question before the House is indefinite postponement of House Amendment "B" (H-1114). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 355

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Beam, Bennett, Bowers, Carr, Carroll, Chase, Chonko, Clark, Clement, Clukey, Coffman, Coles, Constantine, Cote, Cross, Daggett, Dexter, Donnelly, Driscoll, Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heeschen,

Hichborn, Holt, Jacques, Jalbert, Joseph, Joy, Ketterer, Kilkelly, Kneeland, Libby James, Lindahl, Lipman, MacBride, Marsh, Martin, J.; Melendy, Mitchell, E.; Morrison, Nickerson, Norton, Oliver, Paradis, P.; Pfeiffer, Pinette, Plowman, Poulin, Robichaud, Rotondi, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, A.; Stevens, K.; Strout, Sullivan, Tardy, Townsend, G.; Tracy, Treat, Tufts, Vigue, Walker, Wentworth, Whitcomb, Young, The Speaker.

NAY - Adams, Brennan, Bruno, Carleton, Caron, Cloutier, DiPietro, Dore, Farnum, Foss, Heino, Hoglund, Hussey, Johnson, Kontos, Larrivee, Libby Jack, Look, Marshall, Michaud, Mitchell, J.; Murphy, Nadeau, Ott, Pendexter, Pendleton, Plourde, Rand, Reed, G.; Reed, W.; Richardson, Rowe, Simoneau, Small, Taylor, Townsend, E.; True, Zirnkilton.

ABSENT - Birney, Cameron, Cashman, Cathcart, Dutremble, L.; Hillock, Kutasi, Lemke, Lord, Martin, H.; Michael, Nash, O'Gara, Pineau, Pouliot, Ricker, Simonds, Thompson, Townsend, L.; Winn.

PAIRED - Bailey, (Yea)/ Lemont (Nay); Campbell (Yea)/ Spear (Nay); Swazey (Yea)/ Kerr (Nay).

Yes, 87; No, 38; Absent, 20; Paired, 6; Excused, 0.

87 having voted in the affirmative and 38 in the negative, with 20 being absent and 6 paired, House Amendment "B" (H-1114) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-1110) was adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1110) and sent up for concurrence. Ordered sent forthwith.

On motion of Representative PARADIS of Augusta, adjourned at 10:00 p.m. until 10:00 a.m., Wednesday, April 13, 1994.