

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

Volume III

Second Regular Session

March 24, 2010 - April 12, 2010

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House Legislative Sentiments
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ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
SECOND REGULAR SESSION
31st Legislative Day
Wednesday, March 31, 2010

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

Prayer by Pastor Gordon Compton, Gustaf Adolph Lutheran Church, New Sweden and Trinity Lutheran Church, Stockholm.

National Anthem by Finn Bondeson, Woodland.

Pledge of Allegiance.

Doctor of the day, Heather Sharkey, D.O., Freeport.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (S.C. 753)

**MAINE SENATE
124TH MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

March 30, 2010

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it accepted the Majority Ought Not to Pass Report from the Committee on Business, Research and Economic Development on Bill "An Act To License Home Building and Improvement Contractors" (H.P. 215) (L.D. 272).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative PIEH of Bremen, the following Joint Resolution: (H.P. 1317) (Cosponsored by Senator NUTTING of Androscoggin and Representatives: CRAY of Palmyra, EDGECOMB of Caribou, GIFFORD of Lincoln, KENT of Woolwich, McCABE of Skowhegan, O'BRIEN of Lincolnville, PERCY of Phippsburg, PRATT of Eddington, SMITH of Monmouth, Senators: BRYANT of Oxford, SHERMAN of Aroostook)

**JOINT RESOLUTION IN HONOR OF THE MAINE FARMER
AND MAINE AGRICULTURE**

WHEREAS, recent statistics show that Maine has about 8,000 farms, the bulk of which are small, family-owned operations, that provide full-time and part-time employment to more than 90,000 workers, approximately 13 percent of the State's workforce; and

WHEREAS, Maine's agricultural enterprises provide more than \$684 million through the sale of farm products and contribute more than \$2 billion annually to the State's economy, and an overwhelming majority of Maine people believe that buying local Maine agricultural products helps the State; and

WHEREAS, Maine farmers are the stewards of 1.36 million acres of land, a vital resource in maintaining the food security of Maine people; and

WHEREAS, Maine is first in New England in the production of food, first in New England in the value of aquaculture sales, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, third in the Nation in the

production of maple syrup, eighth in the Nation in the production of fall potatoes, second in New England in milk and livestock production and the only state anywhere involved in the commercial production of fiddleheads; and

WHEREAS, agriculture shaped Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State, to pledge our support and encouragement and to urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agriculture industry; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources as a token of the esteem in which those in this vital field are held.

READ.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. There is indeed a revolution in farming in Maine. We have more than 8,000 farms and they're growing. Not only that, the age of the average farmer in Maine is going down. Now maybe not by a lot, but we still have younger farmers than we do throughout the country. If you're interested in organic farming, there are more organic farmers per capita in the State of Maine than in any other state in the Union, and I'm kind of proud of that and proud of the way that we're growing. It is Ag Day. Go down and enjoy the fudge, enjoy the treats, enjoy fondling the fiber that's down there, and have a great lunch at the Grange. And to all of those within the sound of my voice—in this body, this building, at home—I want to thank all farmers for what you do for us because without you we wouldn't get to be here, and it's a hard job. It's every day you're paying attention to the weather and you're out there trying to make a living off of your farm. Thank you very much.

Subsequently, the Joint Resolution was **ADOPTED**.

Sent for concurrence.

The following item was taken up out of order by unanimous consent:

ORDERS

On motion of Representative SHAW of Standish, the following Joint Resolution: (H.P. 1318) (Cosponsored by Representatives: ADAMS of Portland, AUSTIN of Gray, AYOTTE of Caswell, BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BECK of Waterville, BERRY of Bowdoinham, BICKFORD of Auburn, BLANCHARD of Old Town, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BROWNE of Vassalboro, BRYANT of Windham, BURNS of Whiting, BUTTERFIELD of Bangor, CAIN of Orono, CAMPBELL of Newfield, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA of Naples, CELLI of Brewer, CHASE of Wells, CLARK of Millinocket, CLARK of Easton, CLEARY of Houlton, COHEN of Portland, CONNOR of Kennebunk, CORNELL du HOUX of Brunswick, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CROCKETT of Augusta, CURTIS of Madison, CUSHING of Hampden, DAVIS of Sangerville, DILL of Cape Elizabeth, DOSTIE of Sabattus,

DRISCOLL of Westbrook, DUCHESNE of Hudson, EATON of Sullivan, EBERLE of South Portland, EDGECOMB of Caribou, EVES of North Berwick, FINCH of Fairfield, FITTS of Pittsfield, FLAHERTY of Scarborough, FLEMINGS of Bar Harbor, FLETCHER of Winslow, FLOOD of Winthrop, FOSSEL of Alna, GIFFORD of Lincoln, GILBERT of Jay, GILES of Belfast, GOODE of Bangor, GREELEY of Levant, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, WALSH INNES of Yarmouth, JOHNSON of Greenville, JONES of Mount Vernon, JOY of Crystal, KAENRATH of South Portland, KENT of Woolwich, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, LAJOIE of Lewiston, LANGLEY of Ellsworth, LEGG of Kennebunk, LEWIN of Eliot, LOVEJOY of Portland, MacDONALD of Boothbay, MAGNAN of Stockton Springs, MARTIN of Orono, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McFADDEN of Dennysville, MCKANE of Newcastle, McLEOD of Lee, MILLER of Somerville, MILLETT of Waterford, MITCHELL of the Penobscot Nation, MORRISON of South Portland, NASS of Acton, NELSON of Falmouth, NUTTING of Oakland, O'BRIEN of Lincolnville, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PETERSON of Rumford, PIEH of Bremen, PILON of Saco, Speaker PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, PRATT of Eddington, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, ROBINSON of Raymond, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SARTY of Denmark, SAVIELLO of Wilton, SCHATZ of Blue Hill, SIROIS of Turner, SMITH of Monmouth, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, SUTHERLAND of Chapman, SYKES of Harrison, TARDY of Newport, THERIAULT of Madawaska, THIBODEAU of Winterport, THOMAS of Ripley, TILTON of Harrington, TREAT of Hallowell, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, VAN WIE of New Gloucester, WAGNER of Lyman, WAGNER of Lewiston, WATSON of Bath, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WHEELER of Kittery, WILLETTE of Presque Isle, WRIGHT of Berwick, Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BLISS of Cumberland, BOWMAN of York, BRANNIGAN of Cumberland, BRYANT of Oxford, COURTNEY of York, DAMON of Hancock, DAVIS of Cumberland, DIAMOND of Cumberland, GERZOFSKY of Cumberland, GOODALL of Sagadahoc, GOOLEY of Franklin, HASTINGS of Oxford, HOBBS of York, JACKSON of Aroostook, MARRACHÉ of Kennebec, McCORMICK of Kennebec, MILLS of Somerset, President MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, PLOWMAN of Penobscot, RAYE of Washington, RECTOR of Knox, ROSEN of Hancock, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SIMPSON of Androscoggin, SMITH of Piscataquis, SULLIVAN of York, TRAHAN of Lincoln, WESTON of Waldo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES NAVY TO NAME A NEW BATH IRON WORKS ARLEIGH BURKE DESTROYER THE USS BELKNAP

WE, your Memorialists, the Members of the 124th Legislature of the State of Maine now assembled in the Second Regular

Session, most respectfully present and petition the Secretary of the United States Navy, as follows:

WHEREAS, there have been 2 United States Navy vessels over the years named the USS Belknap after 2 admirals of the United States Navy, Rear Admiral George Eugene Belknap, 1832-1903, and his son, Rear Admiral Reginald Rowan Belknap, 1871-1959; and

WHEREAS, the first USS Belknap (DD-251) was a destroyer launched in 1919 and decommissioned in 1945 after a career of valiant service; and

WHEREAS, the second USS Belknap (DLG/CG-26), the lead ship of her class, was a guided missile cruiser in service from 1964 to 1995 and was built at Bath Iron Works in Bath, Maine, a prominent and historic shipyard; and

WHEREAS, the second USS Belknap was severely damaged in a collision with the USS John F. Kennedy on November 22, 1975, resulting in the loss of 8 lives; and

WHEREAS, the USS Belknap was reconstructed by the Philadelphia Navy Yard, this time with her superstructure made of steel, which because of the accident became the standard for all ships in classes of surface combatants; and

WHEREAS, the USS Belknap returned to sea in 1980 and served with distinction over the years as a flagship and played an important role in the 1989 Malta Summit meeting of President George H. W. Bush and Soviet leader Mikhail Gorbachev, when the President had his sleeping quarters on the ship; and

WHEREAS, the second USS Belknap was decommissioned and stricken from the Naval Vessel Register in 1995 and sunk as a target at sea in 1998; and

WHEREAS, in Bath, Maine, the site of the construction of the second USS Belknap, Bath Iron Works is building 5 new Arleigh Burke destroyers, and this would be a perfect opportunity to resurrect the distinguished name of the USS Belknap, named after 2 notable and patriotic Navy officers; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the United States Navy name one of these fine new ships, built with quality and pride in the State of Maine, the USS Belknap, after the 2 Rear Admirals of the United States Navy and the 2 noble ships that sailed the seas for their Nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Raymond E. Mabus, Secretary of the United States Navy, and to each Member of the Maine Congressional Delegation.

READ.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Shaw.

Representative **SHAW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise before you today to speak about the joint resolution asking the Secretary of the Navy to name one of the new vessels being constructed at Bath Iron Works the USS Belknap. This issue was referred to me by U.S. Navy veterans who served on the USS Belknap. With us today is Shirley Robinson whose son Dana served on the Belknap. She is leading the effort in Maine to name one of the next destroyers built at Bath Iron Works, the USS Belknap.

The last ship to be named the USS Belknap was also built at Bath Iron Works and had a long and distinguished career of service in the Navy.

The USS Belknap, the first of a new class of guided missile frigates, was the second ship of the U.S. Navy to bear this name. She was named after Rear Admiral George Eugene Belknap, U.S. Navy, 1832-1903, and his son Reginald Rowan Belknap,

U.S. Navy, 1871-1959. She was christened by Mrs. Leonard B. Cresswell, the grand-daughter and daughter of the Rear Admiral Belknap and was launched by Bath Iron Works, Bath, in Maine on July 20, 1963.

The USS Belknap was commissioned on November 7, 1964 at Boston Naval Shipyard, Boston, Massachusetts, at which time Captain John T. Law, U.S. Navy, took command as her first Commanding Officer. After spending more than a year conducting special trials, tests, and undergoing brief shipyard availability, Belknap commenced her pre-deployment shakedown training at Guantanamo Bay, Cuba. Completing a successful training period she joined the U.S. Second Fleet.

In July 1966, Captain Ernest C. Hipp Jr. relieved Captain Law as Commanding Officer. In August the Belknap joined U.S., U.K., Norwegian and other units for a combined NATO operation off the coast of Norway. This carried her north of the Arctic Circle. She then became a member of the select Blue Nose Society.

After returning to Norfolk in September 1966, with only three weeks of preparation, Belknap departed for her first extended deployment and duty with the U.S. Sixth Fleet. She returned to Norfolk in February 1967. Belknap departed Norfolk on September 5, 1967 for a tour of duty with the U.S. Seventh Fleet, and Task Force 77.

Passing through the U.S. First Fleet on her way to her assignment, Belknap has the distinction of being one of, if not the only U.S. Navy ship to serve in all four major numbered fleets in a nine month period. During deployment Belknap had the task of Positive Identification Radar Advisory Zone Station. It was her job to keep track of all aircraft over the entire Tonkin Gulf, which often numbered well over a hundred at a time.

She also acted as refueling and rest station for Search and Rescue helicopter crews which saved the lives of numerous, downed pilots and aircrew. On December 8, 1967, Captain J. H. Aldrich, relieved Captain Hipp as Commanding Officer. During this deployment Belknap visited Hawaii, Japan, Hong Kong, and the Philippines. Returning to Norfolk in April 1968, via Port Calls in Perth and Melbourne, Australia and Tahiti. Belknap spent the rest of 1968 through April 1969, preparing for and undergoing the ship's first major overhaul.

After undergoing underway training at Guantanamo Bay, Cuba, Belknap departed Norfolk on October 23 for her second tour of duty with the U.S. Seventh Fleet, doing essentially the same tasks as in her previous tour off Vietnam. She returned to Norfolk in May 1970 via Sydney, Australia, Wellington, New Zealand and Pago Pago, American Samoa. Within 4 months she left for duty in the Mediterranean with the U.S. Sixth Fleet. Once again, Belknap has the distinction of being one of, if not the only U.S. Navy ship to serve in all four major numbered fleets in a nine month period for a second time. This demonstrated her reliability and the superb quality of the maintenance provided by her crew and Bath Iron Works. Originally classified as a guided missile frigate, she was reclassified as a guided missile cruiser on June 30, 1975.

During the night of November 22, 1975 the USS Belknap collided with the USS John F. Kennedy in the Ionian Sea. Seven crew members were killed and 47 injured. The cruiser was towed back to the U.S. for rebuilding at Philadelphia Naval Shipyard. The repairs included a new, improved 5-inch gun, updated missile armament, sonar, communications, and radar suites.

Re-commissioned in May 1980, Belknap was modified as Fleet Flagship May 1985 to March 1986, stationed in Italy for Sixth Fleet Commander.

In December 1989, Belknap served as U.S. Flagship at the Malta Summit when President George Bush met with Russian

President Mikhail Gorbachev. The Malta Summit consisted of a meeting between U.S. President George Bush and the U.S.S.R. leader Mikhail Gorbachev, taking place on December 2 and 3, 1989, just a few weeks after the fall of the Berlin Wall. It was their second meeting following a meeting that included then President Ronald Reagan, in New York in December 1988. News reports of the time referred to the Malta Summit as the most important since 1945, when British Prime Minister Winston Churchill, Soviet premier Joseph Stalin and U.S. President Franklin D. Roosevelt agreed on a post-war plan for Europe.

On February 15, 1995, Belknap was decommissioned and stricken from the Naval Registry. On September 24, 1998, she was sunk as a target. I would once again like to thank Shirley Robinson for coming and thank all of you for signing on to this resolution.

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

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am familiar with the original Belknap. I flew over her when she was flying plane guard behind my carrier for many cruises, and I also had a good friend, a junior officer aboard the ship who was injured in that collision. I would certainly join in this resolution. I'd love to see the next destroyer out of BIW come out with that proud name. I'd also only add one thing. I don't know of any place in the world called Norfolk. The homeport of Belknap was Norfolk, Virginia. Thank you.

Subsequently, the Joint Resolution was **ADOPTED**.
Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Michael Cote, of Embden, who was named the 2010 Small Company Business Leader of the Year by *Mainebiz*, a statewide business news publication. Mr. Cote, president and chief executive officer of Look's Gourmet Foods, revived a cannery in Whiting that originally opened in 1917. In spite of difficult times, this example of a traditional Maine industry has become successful once again, and it now has products on 27% of the supermarket shelves in the Nation. The seafood processor is also expanding into global markets and provides full-time work, including benefits and profit-sharing, to 20 workers in Downeast Maine. We commend Mr. Cote for his exemplary leadership and congratulate him on his receiving this well-deserved honor;

(HLS 1074)

Presented by Representative BURNS of Whiting.
Cosponsored by Senator RAYE of Washington, Senator MILLS of Somerset, Representative PINKHAM of Lexington Township, Representative TILTON of Harrington.

On **OBJECTION** of Representative BURNS of Whiting, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It is my distinct pleasure today to help honor Mr. Mike Cote, president and CEO Bar Harbor Foods and Look's Gourmet Food Company in Whiting. As was read in the official sentiment, Mike was recently recognized and chosen to be the "small business leader of the year". This is not the first time that Mike has been recognized for his innovative, hard work and accomplishments to

make a struggling business successful. In September of 2007, thanks to our Senator Snowe, Congress also recognized his efforts for getting on the list with his company as one of this nation's "fastest growing companies". After Mike and his partner Cynthia Fisher took over the A.M. Look Canning Company in Whiting in 2003, it grew over 200% between 2003 and 2006. Under the name of Look's Gourmet Food Company it placed 41st of 160 "food and beverage companies" categories.

One particular reason I am so proud of Mike's accomplishments with his company, besides the fact that it is located in my district, in my home town, is because this nearly 100 year old business has been in the Look family since 1917. I have known that family since my high school days and have known many, many families that have been employed and supported by this company over my 45 years in Washington County. I know the community and the Look family and all of those in that area are very happy and grateful to see this business succeed under Mike's auspices in these difficult times, especially in Washington County. Small business is extremely important in Washington County because we have very few large businesses there.

Like Washington County, this business has had a long and distinguished history of strong work ethic, personal sacrifice, and community support. Some families have worked there for generations. For instance, Doug Look worked there for over 40 years. So it is very, very fitting that another hard working Mainer like Mike Cote, originally from the town of Auburn, would take over a home grown business like this one and make it successful once again. Because of Mike's ingenuity and innovation, Look's Gourmet Foods continues to support more than 20 families directly, including health insurance and profit sharing in that company, and a community that is used to hard work in tough times. Mike has also saved the last remaining, "multi product" food cannery on the Maine coast. His decision to use all natural products, sustainable foods and partnering with other local businesses such as Raye's Mustard in Eastport have all contributed to his success. However, I believe that one of the most important elements of Mike's success here in our community and in his 30 plus years in business is his favorite motto. His motto is: "you don't have to be smarter than everyone else; you have to work harder than everyone else." Mike is, I believe, a true Downeaster and I congratulate him today. Thank you, Madam Speaker and Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Harrington, Representative Tilton.

Representative **TILTON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I, too, want to stand and mark this special occasion as we recognize Mike Cote for this stellar accomplishment. I worked for many years in economic development in Washington County and this is how I came to know Mike and his partner Cynthia Fisher. Every region trying to encourage business development has a position statement or a slogan and ours is "Washington County, a Tradition of Innovation". Our research showed that Washington County actually has a higher rate of innovation among us businesses than the state as a whole. Our successful industries whether they're engaged in processing food, wood products or textiles are able to thrive because they're continually innovating, finding and anticipating important trends, entering new markets and creating products that people want.

Look's Gourmet Foods is an important and exciting example of how a traditional business can thrive through innovation. Mike and Cynthia revived a 93 year old company many would have simply written off as a relic of a bygone era. They did this by looking at the company's traditional product line in a new way,

emphasizing the things people value, finding new niches in the market to reach, and concentrating on the quality of their labor force and sustaining the local resources that they rely on. I would submit that Look's Gourmet Foods is an example of what the future of Maine's manufacturing sector looks like, developing highly desirable products for more select markets willing and able to pay for an excellent product. I am delighted that Maine's foremost business publication has recognized Mike Cote for the pioneering entrepreneur that he is, and I am honored to know him and to help introduce him to you today. Thank you, Madam Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

Jon Hentz, of Georgetown, who was named the 2010 Georgetown Citizen of the Year. Mr. Hentz was born and raised in Georgetown. He returned to live in Georgetown after serving in the United States Navy. While serving in the Armed Forces, he received the Navy and Marine Corps Medal for his extraordinary heroism in saving the lives of the crew of a B-52 bomber that went down in the Pacific Ocean during a typhoon. Mr. Hentz has served with distinction with the Georgetown Fire Department since 1981 and since 1988 he has been the safety officer. He was president of the fire department's board of directors for 8 years and is now serving as vice president. He also was the first chair of the town's harbor committee and has been the town shellfish warden since 1990. We send our appreciation to Mr. Hentz on his dedicated commitment to his community and to the State. We congratulate him on his being selected as the 2010 Georgetown Citizen of the Year;

(HLS 1076)

Presented by Representative MacDONALD of Boothbay.

Cosponsored by Senator GOODALL of Sagadahoc, Representative PERCY of Phippsburg, Representative KENT of Woolwich.

On **OBJECTION** of Representative MACDONALD of Boothbay, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The few words that I will utter here about Jon Hentz will certainly fail to convey the full sense of admiration that I have for the great work that he has done, not only in Georgetown but really for the rest of the State of Maine. As a shellfish warden in Georgetown, he sees his role as much larger than just the town of Georgetown and is in fact spearheading a campaign to help clean up the whole Kennebec watershed, all the way up to Moosehead. In fact, he is working on behalf of all of the citizens of the state for better water quality control, not only for the clambers but for the rest of us. I was pleased to be able to be at the community center a few weeks ago when we won this award, and I'm pleased to be here today to ask you to join in celebrating the award of a man who has worked very hard, not only at the work that he does as a shellfish warden but in fostering the quality of life in his community and the rest of the State of Maine. The unspoken thing about Jon Hentz is that in addition to these kinds of official duties, he is a great human being and he, along with his wife Rosemary, have been instrumental in helping people in need in their community that goes well beyond their official fire department and shellfish warden roles. He is here today with a number of friends. The number of friends that have come with

him I think indicate the kind of person he is and the kind of family they are. I hope you will join me in greeting and celebrating the appellation of Jon Hentz as Georgetown Citizen of the Year for 2010. Thank you, Madam Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

the men and women of the 286th Combat Sustainment Support Battalion of the Maine Army National Guard for their dedicated service to the State of Maine and the Nation. The 81 members of the 286th Combat Sustainment Support Battalion served 9 months in Afghanistan during Operation Enduring Freedom. One of the 286th Combat Sustainment Support Battalion's duties was to plan and coordinate logistics in southern Afghanistan to support combat operations against Al-Qaeda and Taliban forces. We acknowledge the 286th Combat Sustainment Support Battalion's dedication to the Nation and we commend its members for their service;

(HLS 1077)

Presented by Representative CROCKETT of Bethel.

Cosponsored by President MITCHELL of Kennebec, Speaker PINGREE of North Haven, Representative TARDY of Newport, Representative CURTIS of Madison, Senator RAYE of Washington, Senator COURTNEY of York, Representative PIOTTI of Unity, Representative BERRY of Bowdoinham, Senator BARTLETT of Cumberland, Senator MARRACHÉ of Kennebec, Representative COTTA of China.

On **OBJECTION** of Representative CROCKETT of Bethel, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Today I rise to honor the soldiers of the 286th Combat Sustainment Support Battalion based in Bangor. This Army National Guard Unit returned to Maine from their deployment to Afghanistan in January. They spent a year away from their families and comforts of home to go to one of the most dangerous parts of Afghanistan at one of the worst possible times. They were originally supposed to act as a base operations command at Kandahar Air Field, but they possessed a much needed skill set at a critical time in our war on terror in the Afghan front. As our American forces would surge into the region, they needed infrastructure to facilitate ongoing combat operations. They needed supplies to resource offensive operations in areas that were less than friendly, to put it mildly. American forces needed a unit which would command and control as well as execute the countless missions necessary to make this happen. The small but mighty 286th, with its roughly 81 personnel, answered the call and was soon in charge of over 1,000 soldiers from a multitude of units across the Army. They were responsible for the bulk of support activities in the Kandahar and Oruzgan Provinces. But don't let this expression support activities lull you into thinking of an easy life. What it really means is this unit conducted combat with just patrols and convoys into remote hostile areas with ammunition, fuel, and goods to supply our soldiers. For those who have ever fought terrorists or guerilla warfare, you know that these convoys, which are considered in some references "soft targets" are especially targeted with ambushes and IADs, which unfortunately occurred, yet these sons and daughters of Maine preserved and served our nation well over the course of their deployment.

The men and women of the 286th come from every corner of Maine, ranging from the St. John Valley to York, from Rangeley to Machias, and while they could not all be here today, we were graced with the representative of these soldiers, Command Sergeant Major Peter Barrett. For those who don't know what a sergeant major does, he is the senior enlisted person in the unit responsible for the welfare of all of the unit soldiers, as well as the overall success of the mission. A sergeant major should be tough to the point, respected, revered and compassionate. Command Sergeant Major Barrett is all of these things. He accomplished the mission and brought his people home safely and, with them, the great honor to our beloved state. Yet today let us extend our gratefulness to Command Sergeant Major Barrett and those brave soldiers from the 286th who valiantly stood watch on the Wall of Freedom, let us further commemorate these soldiers and all service members' sacrifice by forever remembering that freedom is not free. Thank you, Madam Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

the following members of the Leavitt Area High School Football Team, who won the Class B State Championship: players Josh Strickland, Dylan Moore, Isaiah Wright, Jordan Hersom, Kurtis Brown, Buck Bochtler, Pedro Liriano, Bobby Churchill, Lucas Witham, Kevin Theiss, Brian Bedard, Eric Theiss, Steve Michaud, Christian McBreairty, Ian Durgin, Jason Fisher, Oscar Rodriguez, Nick Urquhart, Jack Griffin, Robbie Hill, Mike Martel, Jake Ouellette, Tyson Nichols, Jon Letourneau, Zach Frost, Devin Long, Kevin Russell, Ryan Labbe, Jake Irish, Dan Sleeper, Brandon MacDonald, Colton Pelkey, Josh Bunker, Jesse Pelletier, Chase Emerson, Sebastian Small, Max Cloutier, Brandon Collins, Cole Rowland, Steve Gibbings, Jake Posik, Dakota Duncan, Matt Pellerin, Greg Lake, Chad Landry, Devin McMahan, Justin Fontaine, Mat Porter, Mitch Cobb, Kelvin Liriano, Luke Wiley, Alex Pond, James Morin, Josh Allaire, Tom Langelier, Dustin Collins, Nate Berube, Tyler Lessard, Cory Ledwell, Josiah Cedre, Derek Bates, Tom Hite, Dustin Moore, Cam Griffin, David Hersom, Tyler Vallee, Cody Craig and Connor Willard; head coach Michael Hathaway; assistant coaches Pete Higgins, Dave Bochtler, Chris Gray, Jim Theiss, Tory Ford, Larry Hathaway, Jim Hersom and Dave Whitcomb; statistician Randy Gray; videographer Kelvin Youland; and athletic director Doug Conn. We extend our congratulations and best wishes to the members of the team on their achievement;

(HLS 1078)

Presented by Representative SIROIS of Turner.

Cosponsored by Senator NUTTING of Androscoggin, Representative KNIGHT of Livermore Falls, Representative DOSTIE of Sabattus, Representative CAREY of Lewiston.

On **OBJECTION** of Representative SIROIS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Turner, Representative Sirois.

Representative **SIROIS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's with great pride and pleasure that I stand here to congratulate and welcome the Leavitt Area High School Football Team. They are the 2010 Class B State champions. They worked together as a team, and I gave Madam Clerk a break and didn't want her to read all the names because there were over 80 when you count the coaches and so forth, but it is on the sentiment so they can

see that. I guess every community and every coach hopes for someday having that dream team, and I think this year's Leavitt Football Team is probably as close as our communities are every going to get there.

It was a team, and I want to stress that they worked together as a team and then took the team. I say that because I am going to recognize a few individuals. Coach Hathaway gave me some stats and I'd just like to read some of them, I have a page full here. Leavitt was the Class B Eastern champions by defeating Gardiner 13-0. They were the State Class B champions by defeating Cape Elizabeth 35-21. I just want to say something about Cape Elizabeth. When the Leavitt team only allowed 57 points all year and Cape Elizabeth scored 21, that's saying that they had a very good team as well. Coach Hathaway was named Coach of the Year in the Pine Tree Conference. Matt Pellerin, Defensive Player of the Year. The *Sun Journal* All Region Selection had Eric Theiss, Josh Strickland, Jon Letourneau, Matt Pellerin, Cam Griffin, Mitch Cobb, Luke Wiley and Mat Porter. The *Portland Press Herald* had for All State Selection Josh Strickland, Matt Pellerin and Cam Griffin, and a semifinalist in the Fitzpatrick Trophy was Eric Theiss.

The offense scored over 350 yards, they averaged that, and 45 points per game. The defense had six shutouts and, as I mentioned, they only allowed 57 points all year. Matt Pellerin was one of the best linemen, went both ways and he had over 120 tackles and 10 sacks for the year. Josh Strickland has one of the best playoff performances in the state's history, rushing over 900 yards in four games and 12 touchdowns, including 300 yards and four touchdowns in the state championship game.

I'd like to just end with some comments, kind of a quote from Coach Hathaway. They, meaning the seniors and their teammates, have spent countless hours working on speed, strength, conditioning and honing their football skills in the off-season. Most importantly, this was a great team. Their attitude and unselfishness was essential to their success on the field. Their concentration and focus and practice and games were outstanding. You know, we can have all the accolades and all the stats in the world, but I think what's even more important is what we develop in these young people: their attitudes, sportsmanship, hard work, helping the team. I just want to congratulate this team, thank them for their example for the rest of the students at Leavitt and for the younger kids coming up, and just thank them for a job well done. Thank you. Thank you, Madam Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

the Leavitt Area High School Boys Nordic Ski Team, which has placed first at the Sassi Memorial Race and which won the 2010 Kennebec Valley Athletic Conference Championship and the 2010 Class A State Championship. We extend our congratulations and best wishes to Derek Drouin, Travis Adams, Dylan Chase, Elliott Wiegman, Keith Lemelin, Tom Rabon, Coach Dustin Williamson and the entire team on these remarkable achievements;

(HLS 1079)

Presented by Representative SIROIS of Turner. Cosponsored by Senator NUTTING of Androscoggin, Representative DOSTIE of Sabattus, Representative KNIGHT of Livermore Falls, Representative CAREY of Lewiston.

On **OBJECTION** of Representative SIROIS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ.

Recognizing:

Tom Rabon, a sophomore at Leavitt Area High School in Turner, who is the 2010 Class A Freestyle and Classical State Champion. He was on the 2010 KVAC Championship Nordic Ski Team and the 2010 Class A State Championship Ski Team. We extend our congratulations to Tom on his accomplishments and send him our best wishes on his future endeavors;

(HLS 1080)

Presented by Representative SIROIS of Turner. Cosponsored by Senator NUTTING of Androscoggin, Representative DOSTIE of Sabattus, Representative KNIGHT of Livermore Falls, Representative CAREY of Lewiston.

On **OBJECTION** of Representative SIROIS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Sirois.

Representative **SIROIS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The first thing I need to do is apologize to the girls team. I messed up and I know that's hard for any of you to believe, but I did. They won the Class A Nordic Championship last year, and I didn't put a sentiment in so I put one in this year, and I wanted them to come up and it got on yesterday's Calendar instead of today's somehow. So I had to apologize twice. Because the sentiment wasn't read to you for the girls, I'll read the names of last year's team and some of them are here today because they're still on the ski team. Melissa Kelson, Natasha Varney, Laura Dacyszyn, Samantha Varney, Taren McGray, and Lucy Knowlton. So I congratulate them. What I say for the boys ski team definitely goes to them as well.

Cross-country skiing is a very different sport. It's a team sport but it's really an individual sport, and I know a little bit about this because some you know I coached cross-country running for Leavitt for 13 years. So much of it is the same, except skiing is harder because you've got to do everything on skis, which I wouldn't be able to do, but the training is very similar. These athletes a lot of times don't get the recognition some athletes do because they're outside, especially in the winter; they're out in the woods. They don't get a lot of fans supporting them, usually just parents. But they work very hard. Obviously they have skills in this sport, but I think more than maybe some sports it's the work ethic that means more than the skills. It's how hard they work. Many of these athletes participate year round. They run cross-country in the fall, and, again, I had several who ran cross-country, not because they liked cross-country but they were getting ready for the ski team, and then they run track in the spring, the distance events. Then you'll see them working out in the summer. Just something I wanted to note, I co-sponsored a bill by Representative Carey this year and we passed it, and, by the way, Representative Carey ran on my cross-country team, he was a good runner and he was even a better cross-country skier for Leavitt. But he put in a bill to protect young athletes when they are roller-skiing on the roads, and we passed that bill. Sometimes we don't put faces to that, so when you applaud these young athletes today, at least you can see some faces that hopefully we protected with that bill. Again, I just want to congratulate this team, both teams. Also, Tom Rabon, who is not here today because he's taking a test, won the classical and freestyle and I'm sure that Coach Dustin Williamson hopes and prays every day that Tom's parents don't move out of the district in the next two years so he can have him for a junior and senior year. Finally, just one word about Coach Dustin Williamson. I've been here four years and he's had three championships in those

four years, so he's got to be doing something right, and I congratulate him as well. Thank you.

Subsequently, the Sentiments were **PASSED** and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Resolve, To Repeal the Fee Increase for Copies of Vital Records (EMERGENCY) (S.P. 613) (L.D. 1648)

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec

Representatives:

PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
STUCKEY of Portland
EVES of North Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-409)** on same Resolve.

Signed:

Senator:

MILLS of Somerset

Representatives:

JOY of Crystal
CAMPBELL of Newfield
LEWIN of Eliot
STRANG BURGESS of Cumberland

Came from the Senate with the Reports **READ** and the Resolve and accompanying papers **INDEFINITELY POSTPONED**.

READ.

On motion of Representative PERRY of Calais, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act To Allow a Casino in Oxford County"

(I.B. 5) (L.D. 1808)

Signed:

Senators:

SULLIVAN of York
GOODALL of Sagadahoc

Representatives:

CORNELL du HOUX of Brunswick
PINKHAM of Lexington Township
VALENTINO of Saco
TRINWARD of Waterville
CAREY of Lewiston
RUSSELL of Portland
TUTTLE of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-804)** on same Bill.

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

BEAULIEU of Auburn
FITTS of Pittsfield
NASS of Acton

READ.

Representative TRINWARD of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Trinward.

Representative **TRINWARD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The Oxford County initiative came to our committee at the very end of the meeting schedule. The committee felt very pressured and did not believe we had enough time to truly work a competing measure through the committee process and do it justice. The committee also has the highest respect for the process of the citizen initiative. This petition had over 100,000 citizens sign it, and out of respect for these citizens, we supported the concept of sending this initiative to the people to let them decide. We also had a few other concerns. That the citizens were bringing to us, the Legislature, the request to consider one casino in Oxford County, and the concept of the Legislature turning around and sending it back to the citizens asking for three casinos gave us reason to pause. But at the end of the day, we felt that the Oxford County casino was not the best deal for the State of Maine, that there was not enough benefit for all the citizens of Maine. My hope would be that something that would be a true benefit to all the citizens of Maine would be what the final Legislature would consider, so I ask you to follow my light and vote Ought Not to Pass. Let the citizens of Maine decide the fate of the Oxford County casino.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. LD 1808 was submitted a citizen's initiated bill which garnered approximately 105,000 signatures in just over two weeks. As written, this bill has issues, primarily regarding the opportunities for others that could come later and even the existing facility that we have in Maine to go forward and eventually have table games. The bill, as written, has obstacles to that. Some look at it as pulling up the drawbridge behind them. But this bill was heard in the LVA Committee, as we heard, late in the session, and I would contend that it was not so late that the committee could not have worked it. But we weren't given that opportunity. We were told "vote it out", and the result was predictable. If there is somebody in a committee that doesn't have time to consider a bill, the safest vote is no. But I felt, as did three other members, that there could be merit in working on a compromise and a competing measure. As it turned out, the original sponsor, Black Bear Entertainment, endorsed the idea of a competing measure along with the two other parties, and that's what the Minority Report is.

Now the easy answer is to vote for the Majority Report, send this to the people and move on. If we defeat the Majority Report and move to the Minority Report, that also is fraught with danger, danger for those 105,000 signers, but I was willing to put that out there in front of this House and let the House decide. We often

hear that when dealing with issues concerning gaming that we should send it to the people. I propose that the Minority Report, which we can't get into great detail on but I can tell you why I would like to you to oppose the Majority Report, the Minority Report doesn't create three new casinos. It allows for the Oxford proposal to go forward, it allows table games to be added to Hollywood Slots, Penn National's facility in Bangor, and it affords Washington County an opportunity to finally vote along with all of the other people in Maine on a proposal that we all potentially could support in regional fashion.

The issue that's historically happened and was demonstrated in the previous vote on the last Oxford proposal was that it was defeated in a regional way. Hancock County and Washington County overwhelmingly defeated the original Oxford proposal that we had in front of us last year. This proposal that's in the Minority Report would afford the State of Maine to consider this on a statewide basis rather than pitting one region against another. I thought that that had merit. I certainly want to thank those who worked on the compromise. A lot of time went into it, and I think they deserve at least to be recognized for that effort. If the Majority Report succeeds, I would pledge that this Legislature should move forward with an alternative that we could consider next session. But mark my words, it won't look a lot different than what the Minority Report is, and we have an opportunity to vote that Minority Report out, let the people decide now and put this to bed once and for all. So that's where I stand on it. I would ask you to follow my light, but if you feel that your reason for voting down this report is to move on and put amendments on the Minority Report to advance some other agenda, I would ask you to support the Majority Report because I don't want us to get into a division within this state pitting one region against another and I think the Minority Report would take care of that. Thank you, Madam Speaker.

The SPEAKER: The Chair would just remind members of the House that during this debate that the current motion is the Majority Ought Not to Pass Report. It is not proper to debate the details of the Minority Report until we get there, if we get there. So just a reminder as there are a number of people who plan to speak.

The Chair reminded all members to confine their debate to the question before the House.

The Chair recognizes the Representative from Portland, Representative Harlow.

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I would move to Accept the Majority Report Ought Not to Pass. The Oxford casino referendum, it did raise 105,000 signatures in 20 days. It was brought forth by four small business people. The bill has been regarded as fair and extremely well written. We owe it to the public to be able to vote this referendum up or down on the merits of the referendum. The Oxford referendum does not rise to the level of uncertainty that would require this body the need to authorize any other measure other than to send this back to the people for an up and down vote. There's been discussion about tribal equity, but I believe the quickest and fastest way to achieve equity for the tribes and gaming arena is to send LD 1808 back to the voters of Maine alone, hope for an Oxford victory, thus allowing a clear path for the next Legislature to remedy any perceived inequities. Not supporting the Majority Report and potentially allowing a competing measure, in short both measures will be ultimately defeated and potentially closing the door on any further help this body could provide the tribes in this area. I urge you all to support the Majority Report, allow the people of Maine to vote this referendum up or down on the merits of the referendum. Maine citizens need us to step aside and let their

wishes be heard. Please vote with the majority with Ought Not to Pass. Thank you very much, Madam Speaker and Ladies and Gentlemen of the House.

Representative PERRY of Calais **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative **PERRY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I would like to ask that you vote against the Majority Ought Not to Pass Report. I strongly suggest that we do have a competing measure. In this is a 10 year moratorium and I will say our area has spent nearly 20 years on this same issue. To take that opportunity away for a 10 year period when our area has consistently voted to have some sort of gambling, slots or casino in our area does not really take care of the areas of the state that have actually looked at this. I'm going to ask that you vote against this and that we allow for a competing measure to happen. Thank you.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in opposition of the Majority Ought Not to Pass motion on the floor today. I appreciate the hard work done by the Legal and Veterans Affairs Committee because this has not been an easy task. This has been a debate and a discussion in this state for a number of years. It has brought up regional differences. It has brought up inequalities between state municipalities and the tribal communities. But this measure presented here today I do not believe provides a real policy choice for the people of Maine. As we are moving forward in our discussion about the expansion of gaming facilities in our state, I think that we need to present the people of Maine with a real policy option, a choice on how they see the expansion of gaming moving forward in our state. I appreciate Representative Fitts and the Minority Report that was worked on in this committee. I understand that providing the option of three casinos in the State of Maine looks like it is providing fairness and equality to all, but my concern is that what it will look like to the people of Maine is that a citizen's initiative came before this body and the Legislature got its hand on it and turned it into three casinos and spread them across the state.

Now I'm not opposed to casinos, I'm not opposed to table games. In fact, I think that the slots facility in our state has worked well in a regulatory piece. They have followed the law, they have played by the rules, they've worked with their local communities, and I don't think the people of Maine should be afraid of adding table games or becoming a full casino. But what I do think, what I am concerned about with, by implication of the report that was mentioned earlier in this debate, is I don't believe that presenting the people of Maine with the decision on one casino or three casinos is a real option. There are other amendments that are pending in this body related to this measure that would provide true options for the people of Maine, to make a policy choice on how we move forward with the expansion of gaming in this state. I won't get into the details of those, but I do think that with this measure, LD 1808, I would just like to bring your attention to a few of the problems of why I don't think that this is a viable option to just go for the voters. In Section II, 5-A, the definition of casino, how the state wants to define is "Casino" means a facility in Oxford County. I don't know about you but that does not sound like a definition of casino, and I, regardless of where it's put in the state, I don't think that's

reasonable. It prevents who is eligible to obtain a casino operator license, it has a whole series of restrictions and how many miles you're from this and this and this, to make it and hone it in so that one specific location in the state falls within the definition. I don't believe that's a real choice for the people of Maine. It provides a different tax structure than the existing gaming facilities in our state. It provides a better deal for those that are proposing this casino, so it is essentially taking money that should go to the state to fund critical programs like education, community colleges, scholarships, and some of that's in there but less of it is in there than what currently is in Maine law. And in the requirements for licensure, while the proponents of this measure say that it does not restrict expansion of table games or casinos to the facility located in Bangor, it does specifically say under the requirements for licensure that to maintain your eligibility for a slot machine operator license, a licensed commercial track must at all times maintain the license to operate the commercial track without lapse, suspension or revocation, and a licensed commercial track is not eligible for a license to operate table games. It's in the legislation and if we're going to talk about fairness and equality and equity in this state, I think that we need to provide a more viable choice for the people of Maine. I urge you to vote, I swore I would never say this, but I urge you to follow my light and defeat the pending motion. Thank you, Madam Speaker.

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

Representative CAREY: Thank you, Madam Speaker. I rise and urge you to vote Ought Not to Pass, vote green on this bill. I wanted to answer a couple of things that have been brought up in this debate. First, there was discussion about the moratoriums that are in fact in the bill, in the initiative that's before you today. As you know, when an initiative is passed, it goes into statute just as a law passed from this body. So as any other statute, a subsequent Legislature can change that law and, in fact, that's what this initiative bill does currently. In current law there's a requirement that there cannot be a slot machine facility within 100 miles of the racino at Bangor or within 100 miles of Scarborough Downs. To allow this Oxford casino to go forward, that statute has to be changed to allow this facility to go forward. If there's any later initiative in Washington County or any where else in the state, that would conflict with the 10 year moratorium or any other geographic requirement. That too could be changed by a subsequent Legislature as this initiative does before you. In not debating some of the other options that are before us today, you've heard that there is a lot of debate and there was a lot of debate in committee as we considered this and eventually arrived at this Majority Ought Not to Pass. There are, by my count, seven different casino or racino proposals that the State of Maine has seen, mostly through the ballot box and a couple through this body, within the last decade. To find an equitable solution between the different geographies of the state, to find an equitable solution between commercial entities, Native nations and any other potentially nonprofit groups that may be interested in operating some of these facilities or some of these machines, it is a very difficult policy question and it is not one that lends itself to the initiative process. That is why I, after deliberation in committee, I voted to send this directly out to the voters, and I believe that we should consider, next year, a broad bill in a working group to look at and find a solution that would try to encompass all of the interests in the state that have interest in gambling, and, frankly, the interests in the state that don't have interest in gambling, and try to find a solution that will work for the entire state and then send that out to the people. Because we're responding to an initiative that's come from the people, we don't

have that option. We don't have the ability to be thoughtful in the way that this body can be, and I ask you to send this out to the people without an amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative VALENTINO: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to support my good chair from Waterville on the Ought Not to Pass. As a member of the Legal and Veterans Affairs Committee who was first appointed six years ago, I've seen this issue many times over the last six years. I feel that 105,000 people signed the petition to allow this to go forward, to have the casino in Oxford County. As the good Representative from Pittsfield stated, as written, this bill has issues. But this is the only bill we have before us at this time that 105,000 people have signed. We do not have the capability to alter what they have signed. Therefore, I feel we should let this go out to the citizens of Maine without a competing measure at this time. I feel that the people have signed this, this is a way to know whether or not they want us to go forward again, to have a petition or have something on the ballot from the Legislature on this gambling issue. Also, my good friend and the good Representative from Pittsfield said that we should pledge to devise a report to send to the voters, and I want to say at this time I take him up on that and I do pledge that I will work to get something to the voters that, if this referendum fails, that will be fair and equitable to not only the State of Maine but to all the citizens of the State of Maine. Not something that was put together to appease one party or one area or one interest of the state, but something that truly represents all of the people of the State of Maine. Therefore, I would urge you to support the Majority Ought Not to Pass.

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

Representative SOCTOMAH: Thank you, Madam Speaker. Madam Speaker, Members of the House. I believe this piece of legislation is too restrictive. It denies rights for the other parts of the state to have the same rights as being proposed here. The legislation would deny the rights for eastern Maine or any other part of Maine to have a gaming facility. Each year the Maine Tribes are told to wait another year and we'll try to keep working on this. I would ask you to look at the bigger picture in this, give Maine people an option, not just one question on the ballot but to look at a competing measure. Thank you.

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

Representative RUSSELL: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. A competing measure should be used very, very judiciously. Over 100,000 citizens of this state signed on to a petition asking for the right to vote on a particular initiative. In this particular instance, it was the Oxford casino. I don't think that we should take that lightly, any more than I took it lightly when another casino came before the Legislature previous to my time, a measure that was voted down by the people. We have seen repeated measures come forward, and I have yet to see a competing measure come out on a casino because I believe that we have consistently decided that it should be the people that make that choice. I don't believe that we should be putting forth a competing measure on any citizen's initiative unless that citizen's initiative is frankly rather egregious to State Government or to the people of Maine, and I don't see this casino as meeting that threshold. You know, it's true. The folks that invested the money, the folks that invested the time, wrote the proposal in their best interest. With all due respect, that's just part of doing business. If you're going to write your market plan or your business plan for your business, you're going

to look at the competition and you're going to do what you can to put yourself ahead of the line so that you can make money. That's just part of doing business. In this instance, we have to determine as a body whether we believe that the people should have the right to vote on something that they signed on to. One hundred thousand people is not a small amount of people. That's double, just under double what is required as a threshold. That's a lot of people. And they collected it in two weeks. Just imagine what they could have collected if they'd spent three weeks, or three months collecting signatures. I believe that this casino proposal should go straight to the people, Ought Not to Pass. I do believe that there are opportunities if this proposal fails at the ballot box, that we do as a Legislature have a responsibility to get out ahead of these referenda and provide an opportunity for folks to do a competitive bid process. But we're not there yet. We're looking at the proposal in front of us. I have to say, we have to think very, very judiciously about what we're telling the people of Maine. Are we going to tell the people of Maine that we do not support their right to petition their government, that 100,000 people means nothing to the State of Maine Legislature? We should be at the front of the line protecting the citizens' right to petition their government and not unilaterally putting forth not just competing measures but piggyback measures. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Lexington Township, Representative Pinkham.

Representative **PINKHAM**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Being on the LVA Committee, this was a tough one. We really weren't given enough time to work it. For those of you that were on the committee and those of you that were in the audience or listening know that I really struggled with this bill. I listened to everybody. The bottom line is I voted in opposition just to go with the Oxford casino. But in truth, really where my heart is, is with Washington County and whole big picture on that one. So I'm probably going to be voting against what I voted for in committee and vote for the competing measure, and I really think it's the one to do. I'd ask you all to think about it, what's good for Washington County. These three units have all come together. Black Bear, Hollywood Slots, and the Passamaquoddy's have all done a lot of behind the scenes negotiating when they came back to us, and if they're all happy with it, I don't understand that we as a legislature wouldn't also back it. I know I'm flip-flopping on that one and I apologize to those that I had sided with originally, but I would urge you to defeat this motion. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Mitchell.

Representative **MITCHELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to speak about this bill, neither for nor against. About 27 years ago, the state came into our community and removed two dozen slot machines that we had been operating for five years, and they did it because a law was passed in Congress that affected the Land Claim Settlement Act, in that any law passed by Congress after the Settlement Act did not apply to the Maine Tribes unless the State of Maine and the Tribes agreed to make it apply. Needless to say, the Tribes agreed to make it apply but the state disregarded it completely, and that was the IGRA, the Indian Gaming Regulatory Act. As a result of that a lot of our community service programs that were supported by the revenue from those machines dissipated. We were not able to provide for a lot of our community services to our elders and to our youth programs and to people who were experiencing difficult times in their homes. We established a high stakes bingo game with the blessing of the state several years subsequent and have

operated that game with a flawless record. There has never ever been one semblance or a complaint or a charge of fraud or misdeed ever filed against the Tribe in the operation of our high stakes bingo game, which is monitored by the State Police Gaming Division, and they themselves will bear witness to that and have many times complimented us on the integrity of our games. The Tribes aren't looking for a handout. We're looking for a hand up, and I think that's all we've ever looked for. We have a great deal of pride and we're fighters, otherwise we wouldn't be here. And we're survivors, otherwise we wouldn't be here. I think there is an equity issue here that runs far deeper than 105,000 signatures. I think there's an equity issue here that's over 200 years old and that continues to surface whenever we talk about gaming or whenever we talk about gaming and the Tribes in the same context, and that bothers me. I find this whole process very distasteful personally. I'm not a gambler, but I am to a degree every morning that I get in my car and drive over here. I don't know if some idiot's going to sideswipe me or T-bone me somewhere. But that's about the extent of my gaming and gambling. But I don't begrudge anybody either the opportunity to do what they feel is entertaining for themselves to do.

Our underlying premise for any request for gaming has always been to support our communities, to support our elders. We have an assisted living center in my community that we run for our elders who need 24 hour care, 24-7 care, and we use revenue from our gaming operations to help support that. We also use the revenue from our gaming operations, our high stakes bingo operations, to support our youth programs and to try to help community members who are experiencing difficult times. And by the way, our community has an unemployment rate of about 46 to 47 percent. So just because of that there's a lot of need and the Passamaquoddy and I can't speak for them, but I know generally, my mother was Passamaquoddy so I suppose I can say something to a certain level, but the Passamaquoddy are in no better economic condition than the Penobscots are. The Houlton Band are in no better economic condition than either the Penobscots or the Passamaquoddy, and neither are the Micmac. Gaming offers an opportunity for a hand up. All we have ever, ever asked for is a level playing field, nothing more, nothing less. Hollywood Slots opened up, it killed our high stakes game. We've lost over \$ 2 million worth of net revenue from our high stakes game that we use to support our community programs. Right now we're doing about \$84,000, \$74-84,000 net. That's down from over \$2 million. So I just put this information out for your consumption and for you to really look into your heart of hearts and into your consciousness and to think just a moment what the Tribes are asking here, and that is level the playing field and give us an opportunity to have some economic security. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Sullivan, Representative Eaton.

Representative **EATON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The good Representative from Portland said one thing that I certainly agreed with. She said she wouldn't support this if she thought this was egregious towards somebody else. Well this might not rise to some Representatives level of egregious, it does rise to that level for this State Representative. To just reflect briefly 52 percent unemployment among the Passamaquoddy's, 47 percent unemployment among our good friends of the Penobscot Nation, 13+ percent unemployment in Washington County. Time and time again, our friends from the Penobscot Nation and the Passamaquoddy's have asked us for help. Time and time again, this state has refused to provide that opportunity for them. There

is no way. I am more than happy to see a competing measure. I will not support going out to the citizens that does not provide some kind of benefit or opportunity or fairness to the people of Washington County or to our Tribes in the State of Maine. To me, this is the equivalent of saying, let's put this out and let's just kick them in the face while they're down. We've done it time and time again, this Representative will not vote to do it. Thank you, Madam Speaker.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise just to clarify a couple of points that were made during this very thoughtful debate on gaming in Maine. First of all, I think that voting against the motion on the floor does not mean that we don't respect the people of the State of Maine. I do not believe that at all. In fact, I think that it's more respectful of this body that we do our job and look at the policy of gaming in Maine and that we provide options for the people of Maine that are not crafted in such as way as to isolate one particular company, region or area of the state at the exclusion of the rest of the state.

Now there was a lot of talk about the competing measure and that we shouldn't put the competing out, but there was also discussion about, well, we can come back next year and can work to craft some legislation next year that we could send out to the voters. What's the difference? Why do we want to punt? Why shouldn't we be allowed to have that debate on this floor in this body about this very important, and controversial to some, but important issue to a lot, of this in this state? There are several options available to us should this motion fail. If we go green on this and we vote the Ought Not to Pass, that debate dies and we cannot have a thoughtful discussion about real options and policies that we could present to the voters this November. I encourage you to vote no. Thank you.

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

Representative **SOCTOMAH**: Thank you, Madam Speaker. Madam Speaker, Members of the House. For the last 20 years, the Maine Tribes have been struggling to create an economy in the gaming field, while other tribes across the nation have been allowed to increase gaming and start creating jobs for their communities. Many are successful. I believe this pending question is too restrictive for the Tribes and for the rest of Maine. Many of the surrounding communities around the reservation, if something is created, benefit. Here in Maine gaming has increased the economy around the areas where gaming has flourished. But the Tribes have been left out of the loop. As you heard before, the highest unemployment rate, the highest poverty rate exists in Washington County. We have businesses leaving there just about every month. Will gaming change the face of Washington County? Will it stop the out flux of businesses of the area? No, but it might stop the tide. It might give us a chance, give us a hope for future employment and businesses coming. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 339

YEA - Adams, Beaudoin, Berry, Bolland, Briggs, Bryant, Burns, Campbell, Carey, Casavant, Cohen, Cornell du Houx, Crafts, Cray, Crockett P, Davis, Dill, Dostie, Driscoll, Eberle, Eves, Finch, Fletcher, Flood, Fossil, Hamper, Harlow, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Kaenrath, Kent, Knapp, Knight, Kruger, Legg, Lovejoy, Magnan, McKane, Miller,

Millett, Nelson, Peoples, Percy, Pilon, Piotti, Priest, Rankin, Russell, Shaw, Strang Burgess, Sykes, Theriault, Thibodeau, Thomas, Trinward, Tuttle, Valentino, Wagner J, Wagner R, Weaver, Webster, Welsh, Wheeler, Madam Speaker.

NAY - Austin, Ayotte, Beaudette, Beaulieu, Beck, Bickford, Blanchard, Blodgett, Bolduc, Browne W, Butterfield, Cain, Ceбра, Celli, Chase, Clark H, Clark T, Cleary, Connor, Cotta, Crockett J, Curtis, Cushing, Duchesne, Eaton, Edgecomb, Fitts, Flaherty, Flemings, Gifford, Gilbert, Giles, Goode, Greeley, Hanley, Harvell, Haskell, Jones, Joy, Lajoie, Langley, Lewin, MacDonald, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McLeod, Morrison, Nass, Nutting, O'Brien, Pendleton, Perry, Peterson, Pieh, Pinkham, Plummer, Pratt, Prescott, Richardson D, Richardson W, Robinson, Rotundo, Sanborn, Sarty, Saviello, Schatz, Sirois, Smith, Stevens, Stuckey, Sutherland, Tardy, Tilton, Treat, Van Wie, Watson, Willette, Wright.

ABSENT - Rosen.

Yes, 69; No, 81; Absent, 1; Excused, 0.

69 having voted in the affirmative and 81 voted in the negative, with 1 being absent, and accordingly the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

Subsequently, Representative TRINWARD of Waterville moved that the House **ACCEPT** the Minority **Ought to Pass as Amended Report.**

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Minority **Ought to Pass as Amended Report** and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1297) (L.D. 1813) Bill "An Act To Implement the Recommendations of the Office of Program Evaluation and Government Accountability Regarding Emergency Communications Services" Committee on **UTILITIES AND ENERGY reporting Ought to Pass as Amended by Committee Amendment "A" (H-806)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Distribute Funds Received from the Racino in Bangor to the Department of Health and Human Services, Office of Substance Abuse"

(H.P. 569) (L.D. 833)

- In House, Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-613) AS AMENDED BY HOUSE AMENDMENT "A" (H-635)** thereto on February 23, 2010.

- In Senate, Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE**

ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-612) in NON-CONCURRENCE.

TABLED - March 16, 2010 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **FURTHER CONSIDERATION.**

On motion of Representative TRINWARD of Waterville, the House voted to **RECEDE.**

On further motion of the same Representative, **House Amendment "A" (H-635) to Committee Amendment "B" (H-613)** was **INDEFINITELY POSTPONED.**

On further motion of the same Representative, **Committee Amendment "B" (H-613)** was **INDEFINITELY POSTPONED.**

The same Representative **PRESENTED House Amendment "A" (H-785)**, which was **READ** by the Clerk.

The same Representative **PRESENTED House Amendment "A" (H-791) to House Amendment "A" (H-785)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Trinward.

Representative **TRINWARD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I wish to speak very briefly that this amendment strips off the growth for the future years going out. It remains with the \$50,000 for the Fiscal Year 2011-2012 and it goes back to the original \$100,000 in 2013. That was an amendment that we worked on with members of the House that had supported that. So I wish to thank all the members of the House and thank Representative Valentino for her work.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to support the pending Adoption of the House Amendment and wish to express my sincere thanks to the good Representative from Waterville for working on a compromise to bring all parties together.

Subsequently, **House Amendment "A" (H-791) to House Amendment "A" (H-785)** was **ADOPTED.**

Subsequently, **House Amendment "A" (H-785) as Amended by House Amendment "A" (H-791)** thereto was **ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-785) as Amended by House Amendment "A" (H-791)** thereto in **NON-CONCURRENCE** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-784) - Committee on UTILITIES AND ENERGY on Bill "An Act To Enable the Installation of Broadband Infrastructure" (EMERGENCY)

(H.P. 1265) (L.D. 1778)

TABLED - March 29, 2010 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Unanimous Committee Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-784)** was **READ** by the Clerk.

Representative HINCK of Portland **PRESENTED House Amendment "B" (H-807) to Committee Amendment "A" (H-784)**, which was **READ** by the Clerk.

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill concerns a little matter relating to dark fiber and something called the Three Ring Binder. Some members may have heard of it. We've gotten contacted by constituents at various times as this was being discussed. The Three Ring Binder is a 1,100 mile network of middle-mile fiber for broadband. It's dark fiber which means it's unlit, optical cable. It creates a dark fiber provider defined under the bill, in this case, the Maine Fiber Company, which is going to be able to utilize federal grant money and private money to build out this network and bring broadband to un-served areas of Maine. I'd say LD 1778 is a good news development for the state. It also took a lot of work and I think we reached a point where a large number of interested parties came together to produce this bill. The final result will enable the use of the \$25.4 million of middle-mile broadband grant money and to put it to use in a timely way. It will leverage an estimated \$5 to \$7 million of additional funds and allow us to quickly bring high-speed broadband, the last mile, to Maine consumers in un-served areas of the state. The two public representatives in the stakeholder process, the Office of Information Technology and the Public Advocate's Office, both believe that LD 1778 offers Maine people and businesses the best hope for bringing broadband access to every part of Maine and to every person who wishes it. Maine Fiber Company gets the ability to attach their federally subsidized fiber optic cable to some 36,000 utility poles in the State of Maine. That's the essence of this bill is enabling that, and we reached the final terms with agreement of the parties.

In the end, we'll have a broadband sustainability program, which is funded by a small fee, on any dark fiber, which is acquired and lit by any telecommunications company provider, and this money will be used by incumbent local exchange carriers, the ILECs, to extend broadband access to un-served areas in the service territory. Because the cost of this federally subsidized dark fiber is substantially lower than the market price for dark fiber in Maine, the small fee, \$3 initially and going down to \$2 after 5 years, still results in dark fiber prices being about 35 percent lower than the current market price. Before we finished all of this, we ended up in discussions with the Department of Commerce in Washington. We went through the process that occurred here in Maine. We discussed all the parties that were interested. We discussed how we reached a conclusion, and the Department of Commerce agreed that we are doing a good job and that this grant money will be used well in Maine to achieve the purposes. I am proud to say that it's an example of a very diverse group of stakeholders coming together to achieve a good result for the State of Maine and I hope that you will join me in adopting our amendments and passing this. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Dill.

Representative **DILL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Broadband or high speed internet connectivity is the foundation for economic growth, job creation, global competitiveness and a better way of life. The internet connects people and ideas around the world and acts as the great equalizer in our society.

Broadband is changing the way we educate our children, deliver healthcare, manage energy, ensure public safety, engage government and access, organize and disseminate knowledge.

Broadband access is also the great infrastructures challenge of the 21st century. We must have a reliable and robust telecommunications network that can reach our rural communities and institutions. Passage of LD 1778 is proof that the State of Maine is prepared to meet this challenge.

The story of the Three Ring Binder Project is simple and brilliant. The best and brightest minds in our state recognized a need and an opportunity. The University, numerous innovative businesses collaborated for hours and created a project to build 1,100 miles of fiber optic rings around Maine connected to 36,000 telephone poles. From these rings, broadband can be deployed to un-served and underserved rural communities.

The project competed with 2,200 others for federal grant money and is one of only 18 projects that received awards. \$25,000,000, as you heard, of federal money will be matched by \$7,000,000 to create a network that will launch Maine into the 21st century.

The Three Ring Binder Project is about jobs and has the potential to turn some of Maine's 20th century infrastructures into the cyber infrastructure of the 21st century. Data and computer centers are the heart of the modern economy. These facilities consume large amounts of power, both to drive electronics as well as to cool. Maine has a significant advantage in this critical and lucrative field in that financially troubled paper mills can be transformed into green data mills.

For example, the mill in Old Town has over 30 megawatts of onsite green electrical generation via its biomass and chemical recovery boilers as well as the capacity to burn methane gas from the nearby Juniper Ridge landfill. Such a center in Maine has significant advantages over other locations because of its onsite electricity, our excellent workforce, reliable, low cost, local power. Cooling challenges are met using our filtered river water. Conversations are happening right now about transforming our paper mills into data mills.

The Three Ring Binder Project is an engraved and embossed invitation to companies like Microsoft, Intel and Google to set up shop in our mills and employ our people. Our telecommunications network has the potential to make Maine the data crossroad of the world because of our proximity to other American, Canadian and European networks.

In closing, I want to sincerely thank all the people who have worked so hard to bring this exciting project to Maine. The university, GWI and other small telecomm companies who designed the project; Maine Fiber Company for investing its capital in our state and our people, the Connect ME Authority, the Broadband Strategy Council and Governor Baldacci for doing the political heavy lifting needed to shepherd this project through the minefields of Washington. Sincere thanks to the Utilities and Energy Committee for the hours and hours of work they spent bringing this bill to a successful resolution; to Fairpoint and TAM members for staying at the table. And finally, I want to offer my sincere thanks to all my new friends in red shirts who have reminded me, and hopefully all of you, that what we do here in the State House has consequences for real people in Maine.

We are blessed that in our democracy, in this country, in this state we can solve problems without resorting to violence, death or destruction. The Three Ring Binder Project, along with all the other exciting things happening in Maine, gives me hope that a prosperous and sustainable future is awaiting us. Thank you, Madam Speaker and Ladies and Gentlemen of the House.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Flaherty.

Representative **FLAHERTY**: Thank you, Madam Speaker. I find it fitting that we take up this issue directly after casinos because no matter your opinion on whether or not casinos truly provide economic development in Maine's rural communities, I know that we can all agree that connecting Maine's rural communities to high-speed broadband service is truly going to provide economic development. In our global economy Maine is fighting to provide jobs and this bill enables economic development opportunities to small businesses like never before. I want to thank the committee members for their bipartisan support, their hard work and a successful conclusion to this bill. Thank you, Madam Speaker.

Subsequently, **House Amendment "B" (H-807) to Committee Amendment "A" (H-784) was ADOPTED.**

Committee Amendment "A" (H-784) as Amended by House Amendment "B" (H-807) thereto 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-784) as Amended by House Amendment "B" (H-807) thereto and sent for concurrence. ORDERED SENT FORTHWITH.**

ENACTORS Acts

An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties

(H.P. 1206) (L.D. 1705)
(C. "A" H-769)

On motion of Representative SUTHERLAND of Chapman, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED.**

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-769) was ADOPTED.**

The same Representative **PRESENTED House Amendment "B" (H-805) to Committee Amendment "A" (H-769), which was READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen, and I noticed a few of my fellow committee members looking my way to see. This is a very minor language adjustment. This bill is a bill that addressed possession and/or discharge of guns at school. It just made some language changes. The piece that we are finalizing today was brought up by a number of schools that indeed have ROTC programs and may have a school operated gun range or a school sanctioned program, and this language that would be added to the bill speaks only to a school sanction program at a school operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body. What you previously approved a couple of days ago was limited to one school that we were aware of. There are more

than one that have these types of programs, so it would cover all of them. Really a technical fix, but I thank you for your consideration.

Subsequently, **House Amendment "B" (H-805)** to **Committee Amendment "A" (H-769)** was **ADOPTED**.

Committee Amendment "A" (H-769) as Amended by **House Amendment "B" (H-805)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-769)** as Amended by **House Amendment "B" (H-805)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

Representative PIEH of Bremen assumed the Chair.
The House was called to order by the Speaker Pro Tem.

ENACTORS
Emergency Measure

An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment

(H.P. 1089) (L.D. 1547)
(S. "A" S-492 to C. "A" H-725)

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

Representative PRATT of Eddington **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. We've heard this numerous times before. I don't need to say my piece again. This is unbelievably whittled down and gutted legislation. We had a bill last year that was good public policy and we've decided to do away with that and I'm frustrated and I'm angry at the process and the way it all went down and I want the opportunity to go back to my constituents.

Under suspension of the rules, members were allowed to remove their jackets.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you, Madam Speaker. Thank you to the good Representative from Hampden. No disrespect was meant. I will sit down. I just do want to say I appreciate the good Chair; I appreciate the work that's gone in. This is a difficult issue and it's not going away and we're going to be dealing with it again. I would urge all of you people here to consider the ramifications on what this does in your committees. When you pass legislation, when you vote out legislation from your committee, you're putting your stamp on it. You're saying, yes, this is a good idea. When it goes under the hammer in this House, you're saying, yes, this is a good idea, we believe in this. When you don't give it a year to even work, when you don't even allow it time to see if it works or it doesn't work, it de-legitimizes everything your committee does and that's frustrating to me. I understand we need to change things, I understand this is a fluid body, this is a fluid process. I ask you to keep that in mind when you make your vote. Thank you very much.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 340

YEA - Austin, Ayotte, Beaudette, Beaulieu, Beck, Berry, Bickford, Blanchard, Browne W, Bryant, Burns, Cain, Campbell, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cohen, Connor, Cotta, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Edgecomb, Eves, Finch, Fitts, Flemings, Fletcher, Flood, Fossil, Gifford, Gilbert, Giles, Greeley, Hamper, Hanley, Harlow, Harvell, Haskell, Hayes, Hill, Hogan, Hunt, Johnson, Joy, Knapp, Knight, Langley, Legg, Lewin, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, McCabe, McFadden, McKane, McLeod, Miller, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Robinson, Rotundo, Sanborn, Sarty, Saviello, Sirois, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Watson, Webster, Welsh, Wheeler, Willette, Madam Speaker.

NAY - Adams, Beaudoin, Blodgett, Boland, Bolduc, Briggs, Butterfield, Cornell du Houx, Crafts, Flaherty, Goode, Hinck, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Magnan, Pratt, Russell, Schatz, Stevens, Stuckey, Wagner R, Weaver, Wright.

ABSENT - Carey, Rosen, Shaw, Smith.
Yes, 120; No, 27; Absent, 4; Excused, 0.

120 having voted in the affirmative and 27 voted in the negative, with 4 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Section 10: Stream Crossings within Chapter 305 Permit by Rule Standards, a Major Substantive Rule of the Department of Environmental Protection

(H.P. 1224) (L.D. 1725)
(S. "A" S-493 to C. "B" H-678)

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. 128 voted in favor of the same and 5 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education

(H.P. 1238) (L.D. 1741)
(C. "A" H-795)

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. 126 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH.**

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Acts

An Act Relating to the Membership of the Workers' Compensation Board

(H.P. 1103) (L.D. 1566)
(S. "A" S-399 to C. "A" H-659)

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

On motion of Representative TARDY of Newport, was **SET ASIDE.**

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative **CUSHING**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to express concern with components that were added to this in the other body. There is a clause relating to the membership of the Workers' Comp Board which provides term limits. I think all of us in this body are familiar with the impacts of term limits at times. Particularly in boards of this nature, I think it's appropriate that we have experienced individuals who serve on that board. I also think it is appropriate that we have individuals who move from that board to allow openings for other individuals with experience to serve. I think in this base the proposed amendment to this bill would provide a removal of those term limits which would not be beneficial, and I urge the body to follow my light on this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This was a bill that was presented by Representative Butterfield on some of his concerns. Essentially what the Senate Amendment does, it removes the term limits provision of the Workers' Compensation Act as it applies to members of the Workers' Compensation Board. The Senate Amendment does not alter in any way the underlying bill that was passed out of the Labor Committee. It only makes an addition. Removing the term limits provision will ensure greater continuity of the board in the coming years. If the bill, as it is constituted, now fails, next January, when the experienced members of the board must resign, there will be no members on either side with more than one and a half years of experience. There is simply not enough time to get up to speed in a very complicated area, very hard to get people in these

positions anyway. I know I talked to the sponsor, he has some concerns. He has accepted the amendment; therefore, I ask that this issue go forward.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative **THIBODEAU**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. The question is term limits and whether or not somebody should have a lifetime appointment to a position. I think that the voters in the State of Maine are very fond of term limits, even though this body may not be, and I think that appointing somebody to a lifetime position certainly is a poor policy and I would hope that you'd reject that concept. Thank you.

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

Representative **BUTTERFIELD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. Just to correct what I'm sure was an unintentional oversight from my good friend, the Representative from Winterport, Representative Thibodeau. This amendment does not allow a lifetime appointment to the Workers' Compensation Board. What it does is remove the limitation on the number of consecutive or lifetime terms that may be served. People will still have to be reappointed to the board. People will still have to be re-nominated. They will still be heard by members of my committee, the Committee on Labor, which both of the Representatives from the other side of the aisle who have spoken are also members. They will have every opportunity in the future to review these nominees for reappointment, for first appointment. All it does is remove the limitation on terms.

Since we're here discussing this, I will tell you that I've actually changed my opinion of this amendment. When this amendment was first brought forward, I expressed a lot of the same reservations that some of my colleagues have about removing term limits. But I think the good chair from Sanford, Representative Tuttle, brought up a very good point which is that term limits on the board for the Workers' Compensation Board are only one legislative term old. This limitation on the number of terms that somebody can serve on this, I think we'd all agree, incredibly important board, this is only a year and a half old this requirement, and the unintentional consequence was that it will remove every experienced member of the board by the end of next year, on both the management side and the labor side. While I think that we can agree that there may be, in the case of the Legislature, and I happen to support term limits in the Legislature, there may be some very good reasoning behind having fresh blood here. I don't think there is when you're talking about a board that deals with an unbelievably complex area of law where experience and accord in being able to find common ground come with experience and are of the utmost importance. So while I opposed this initially, a lot of soul-searching, a lot of discussion and a lot of work have gone into bringing me to where I am today. I do support this, it was my original bill and I urge you all to follow my light. Thank you.

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

Representative **CUSHING**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have great respect from the good gentleman from Sanford who ably served us as our House chair on the Labor Committee and I have great respect for the way he has run the floor debate on many of these issues. I myself disagree with this position because we did not have a discussion about the matter of term limits in the Labor Committee. We did not even have this proposed to us. It came as an amendment from the floor, as I understand it, from the

other body. I think the way that we have worked effectively on the Labor Committee and in many other committees here is to have the ability to have public input and to have a discussion about these bills before we get to the final hours and try and recreate the wheel. The value of term limits, in regards to this particular body, I think speaks to the value of us holding some of those folks who are on the judicatory boards responsible for whether or not they have done their job appropriately. I think that there are some very good people who serve on that board. I have no concerns about some of the current members, but I do have a concern that we have not gone through the due process to hear this out. So I respectfully will be voting against this. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 341

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Russell, Sanborn, Schatz, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Fletcher, Flood, Fossel, Gifford, Giles, Greeley, Hamper, Harvell, Johnson, Joy, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver.

ABSENT - Dill, Fitts, Innes Walsh, Rosen.

Yes, 94; No, 53; Absent, 4; Excused, 0.

94 having voted in the affirmative and 53 voted in the negative, with 4 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Concerning Statewide Communications Interoperability

(H.P. 1201) (L.D. 1700)
(C. "A" H-775)

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

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Prohibit Surcharges on the Use of Debit Cards

(H.P. 1266) (L.D. 1779)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 342

YEA - Adams, Ayotte, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Crockett P, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Fletcher, Gilbert, Giles, Goode, Greeley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Knapp, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Richardson D, Rotundo, Russell, Sanborn, Schatz, Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Beaudette, Beaulieu, Bickford, Browne W, Burns, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Flood, Fossel, Gifford, Hamper, Hanley, Harvell, Johnson, Joy, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson W, Robinson, Sarty, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Weaver, Willette.

ABSENT - Dill, Fitts, Rosen.

Yes, 98; No, 50; Absent, 3; Excused, 0.

98 having voted in the affirmative and 50 voted in the negative, with 3 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, To Direct the Commissioner of Education To Review the Essential Programs and Services Funding Formula

(H.P. 389) (L.D. 551)

(C. "A" H-793)

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

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-777)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act Regarding the Commissioner of Education's Rule-making Authority"

(H.P. 1272) (L.D. 1784)

TABLED - March 25, 2010 (Till Later Today) by Representative SUTHERLAND of Chapman.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Subsequently, Representative SUTHERLAND of Chapman **WITHDREW** her motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Subsequently, on motion of Representative SUTHERLAND of Chapman, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-777)** was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. The Minority Report, which I just moved forward, takes this bill in the proper direction. The original bill singled out a commissioner regarding rulemaking authority. The Minority Report creates a study group to look at the whole topic of rulemaking, the authority of rulemaking, the procedures, and then it also reports back any kind of information to what I consider a more appropriate committee, the State and Local Government Committee. Not my decision to make but that would be the committee that I would have picked. So it takes a topic that was much too narrow and opens it up into an area that is really department. All the departments utilize rulemaking in some way. The Minority Report that you have before you does specify what kind of representation, from what committees will be on the study group. I suspect that there may be a piece of legislation following very, very shortly that will amend that. Thank you, Madam Speaker.

Representative **CONNOR** of Kennebunk **PRESENTED** **House Amendment "A" (H-808)** to **Committee Amendment "A" (H-777)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative **CONNOR**: Thank you, Madam Speaker. Very briefly, the prior bill that I brought forward was probably too specific. In the time since I brought that bill to the Education Committee, where it talked specifically about reviewing the Commissioner of Education's ability to make rules, we heard in caucuses and in my communications throughout these halls that this is not an issue that exists only with the Department of Education. It is much broader than that. Now I want to thank the good Representative from Dennysville for being the lone House member on that Minority Report to allow us to continue this discussion, and I want to thank the good chair from Chapman for re-reviewing that Minority Report and moving it today.

Part of our discussion, as we learned that it certainly is a broader issue as far as laws that this branch of government makes that can then be undone through rulemaking by the executive branch. As all of you know, we are co-equal branches of government and this, the prior bill that we just hopefully passed, will give us an opportunity to make sure that we remain on equal footing. In an effort to assure that all the appropriate committees that have either concern or want to be a part of this process going forward, I present this amendment which essentially strips off any reference to what committees a member needs to be on before they could serve on this work commission. And so now, as you'll see in the summary, it will be at the leisure of the Senate President and the good Speaker of the House to decide what members of this body and the other body should serve on this commission. They'll then report back to the State and Local Government, and if legislation is warranted at that time, then somebody that will be returning to either of these chambers next time will present a bill to the 125th Legislature.

So I appreciate you following my light if a roll call is in order, which presently it is not. So thank you.

Subsequently, **House Amendment "A" (H-808)** to **Committee Amendment "A" (H-777)** was **ADOPTED**.

Committee Amendment "A" (H-777) as Amended by **House Amendment "A" (H-808)** thereto 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-777)** as Amended by **House Amendment "A" (H-808)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles when Operating on Private Property"

(H.P. 1080) (L.D. 1536)

- In House, House **INSISTED** on its former action whereby the Majority (7) **OUGHT TO PASS** Report of the Committee on **INLAND FISHERIES AND WILDLIFE** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-759)** on March 30, 2010.

- In Senate, Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **INLAND FISHERIES AND WILDLIFE** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - March 30, 2010 (Till Later Today) by Representative **CLARK** of Millinocket.

PENDING - Motion of same Representative to **RECONSIDER**.

Subsequently, Representative **CLARK** of Millinocket, **WITHDREW** his motion to **RECONSIDER** whereby the House voted to **INSIST**.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1274) (L.D. 1786) Bill "An Act Regarding Energy Infrastructure Development" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-809)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

(H.P. 1227) (L.D. 1728)
(C. "A" H-799)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is the Highway Fund Supplemental Budget, and I want to take at this particular time to thank the Transportation Committee for their bipartisan work in assembling the supplemental highway budget that you see before us. What this budget does basically is allows for 600 miles of MST paving this year. As you know, we set a goal of 600 miles per year. Last year, we did around 240 miles. We started this year with zero miles. However, through some very hard work with the DOT and the Transportation Committee, we were able to accomplish 600 miles of MST paving. So I think this is a budget that is fair, it's one that we worked very hard on, and I want to thank all the members of the Transportation Committee who worked very diligently and long to make this budget come to pass. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Cebra.

Representative **CEBRA**: Thank you, Madam Speaker. I'd like to thank the chairman of the Transportation Committee and our Republican lead on the committee for their hard work on this bill. I want to note for the record that this was a unanimous report from the committee, which is an awesome thing to get, and I hope that we get a unanimous Emergency Enactor. Thank you, Madam Speaker.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 140 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

Emergency Measure

An Act Concerning Certain MaineCare Rules Regarding Services Provided through the Child Development Services System and School Administrative Units

(S.P. 707) (L.D. 1804)
(C. "A" S-497)

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. 127 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

Resolve, To Implement the Recommendations of the Juvenile Justice Task Force

(H.P. 1204) (L.D. 1703)
(C. "A" H-708; S. "A" S-498)

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. 128 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities

(H.P. 313) (L.D. 425)
(C. "A" H-663)

An Act To Establish the Universal Childhood Immunization Program

(H.P. 984) (L.D. 1408)
(C. "A" H-792)

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.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Resolve, To Define High-risk Populations for the Purposes of Hospital Surveillance for Methicillin-resistant Staphylococcus Aureus and To Implement Public Law 2009, chapter 346 (EMERGENCY)

(H.P. 1188) (L.D. 1687)

Signed:

Senator:

MARRACHÉ of Kennebec

Representatives:

PERRY of Calais

PETERSON of Rumford

JONES of Mount Vernon

SANBORN of Gorham

JOY of Crystal

CAMPBELL of Newfield

LEWIN of Eliot

STRANG BURGESS of Cumberland

EVES of North Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-810)** on same Resolve.

Signed:

Senators:

BRANNIGAN of Cumberland
MILLS of Somerset

Representative:

STUCKEY of Portland

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

On motion of Representative PERRY of Calais, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

An Act Concerning Statewide Communications Interoperability

(H.P. 1201) (L.D. 1700)
(C. "A" H-775)

Which was **TABLED** by Representative BERRY of Bowdoinham pending **PASSAGE TO BE ENACTED**.

Representative SCHATZ of Blue Hill **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The Majority Report, this is a bill that was brought before the Criminal Justice Committee with the concern that the statewide radio network that was being developed would leave out some of the users or make their communications diminished from where they are today. After a good deal of testimony, it appeared that, number one, this probably wouldn't happen, but number two, the testing of this new radio system would not start until April, and it would continue through the first of the year and it wouldn't be until that time there would be any indication as to what the deficiencies might be and, therefore, what the costs might be to the county and towns that might use it. So it was determined by the majority of people on the committee that the bill did not need to be passed at this time, so I would speak in opposition to the current motion and ask that people follow my red light and move this into a posture of Ought Not to Pass. Thank you, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Crockett.

Representative **CROCKETT**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This issue was brought to my attention by Maine Municipal Association last summer and I talked with municipalities and county folks, and it appeared that the state was proceeding with what was called a statewide system, and the municipalities and the counties felt that that meant it included everybody in the state, but in fact it was a state system for the State Police, and the municipalities and counties just wanted to have some input. After this bill was brought forward, the folks at the state did start to work with the counties and the municipalities and we felt that this bill sort of held their feet to the fire. I think the real concern,

that we had and the other body had, is why it was passed too quickly down there was the fact that we all know what happened with Health and Human Services, when their computer system was put in place, how it cost millions of dollars to correct the situation, and we didn't want that same thing to take place with this system. We felt that it was really important that the counties and the municipalities be at the table. Right now they are and we hope that that will continue. So it has been working and I feel that it was working now because of this bill being in place, but I still feel that it's not going to stop the system from going forward, it's not going to cost any more to the system. All that can happen is that this will continue to have the counties and municipalities take part in the system. That's all.

The **SPEAKER**: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this pending motion. When this bill did come forth to the Criminal Justice Committee and we worked it very hard, it is a very complicated bill, but I felt that the bill was a very well intended bill but it had some very serious implications, and those implications simply would have hindered the new statewide system from coming about. This system is for state agencies. It's not just the State Police, it's all of your state agencies that use it from one end of the state to the other. There's two basic questions here that need to be answered. The first question is whether or not this state system moving ahead would prevent county and municipal agencies from interacting with the state agency. The pure emphatic answer to that is no it will not. It will still allow that communication to exist in case of a need or an emergency or a disaster. The other issue has to do with a technicality of being able to get some 302 frequencies licensed through FCC and also part of those through the Canadian authorities. We have been assured by those experts in OIT Commission and have been studying to do this process that that won't be a problem, that will take place. I'm comfortable with their explanation in the prospects of getting these licenses taken care of.

The concern that I have about the pending motion, this Committee Amendment, is that it does remove, on the face of it, the financial responsibility of the state to upgrade, if necessary, the county and the municipal systems, but it doesn't remove the practical aspect. If you read the amendment, it still says that the state OIT and DAFS will ensure that the ability of the state and the county and local communications with state agencies is enhanced, whenever possible, and not significantly diminished. That still puts the state in a position to be responsible for what the counties and municipalities do, which, in my understanding, would quadruple the price of this system. This system that needs to be put into place is a three year project. The first phase, as was already testified to, will involve a testing process that starts in April to show whether or not this plan is going to be effective and is going to work for all the end-users that are involved. It involves a 30 year old system that your state agencies have been using back when I was in the State Police. It was inadequate then, it's inadequate now. Your state agencies have many places in this state where there is no communication, no radio communication, no cell phone communication, no payphones. This trunked system with the 43 tower system will rectify that problem so that those people, those state agencies that use the system and the people that they serve won't be put in jeopardy. If this system does not move ahead, that jeopardy, those blind spots will still exist and there will still be the same problem of communication, especially in remote areas, that exists today. I would urge you not to support this pending motion because I

believe if this, and I am told from the experts that are responsible for doing this, if this Committee Amendment "A" stands, it will impede the progress of this first year of testing and implementation. I would urge you to vote this down so that we can get to the Majority Report. Thank you very much, Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I agree with the good Representative from Blue Hill, Representative Schatz, for two reasons. First of all, there are adequate safeguards built into this contract to ensure that the provider is going to do the job and live up to the standards, very high standards as a matter of fact. Secondly, when you realize what this amendment really says, you have to raise a lot of questions to yourself and say exactly what does this mean. It says that OIT will ensure that communications will not be significantly diminished; I'm not sure what that means. OIT will ensure that, wherever possible, communications will be enhanced. That's the whole objective of this particular project. I hope you vote against this.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Hanley.

Representative **HANLEY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This system has been in the works for a year plus and we have another year or two to finish it. The concerns brought forth were legitimate with the towns and the county involved, would they be serviced, would they be able to communicate with one another and with the state agencies. Those fears have been put to rest. In fact, they will be served. There are places in Maine now, as Representative Burns testified to, and I remember well when on patrol if you were going to go down to the Belgrade Lakes area, you'd simply call the dispatch and say you'd be out of radio communication for awhile, and when you got back up on higher ground, you could get back in contact with them. This system, when it's complete, will take care of the upgrade, update and modernize it, and everyone will have access to it. The counties and the towns and the cities are now satisfied with it and wish to move ahead with it. The company that's doing it, the Harris Company, they have just finished a huge job in the State of New York very successfully and are well on the way to completing this one. So I would hope that you would take and defeat the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. I'm sorry to rise a second time, but there's something very important that you should be aware of and that's I'm not aware of one single sheriff or one single chief of police in this state that is unwilling to have this system go through, have this new trunked system put in. I think that's a very big consideration. They're comfortable with this going forward right now and this amendment would hinder that and that's why I'd ask you to vote against this motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 343

YEA - Adams, Beaudette, Beaudoin, Beck, Berry, Blodgett, Boland, Bolduc, Briggs, Butterfield, Cain, Connor, Crockett P, Duchesne, Eberle, Eves, Flaherty, Flemings, Harlow, Haskell, Hill, Innes Walsh, Jones, Lovejoy, MacDonald, Magnan, Mazurek, Miller, Morrison, Nelson, Percy, Perry, Pieh, Piotti,

Pratt, Priest, Rotundo, Sanborn, Shaw, Smith, Stevens, Theriault, Treat, Trinward, Tuttle, Valentino, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Beaulieu, Bickford, Blanchard, Browne W, Bryant, Burns, Campbell, Carey, Casavant, Cebra, Celli, Chase, Clark H, Cleary, Cohen, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Dill, Dostie, Driscoll, Eaton, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossil, Gifford, Gilbert, Giles, Goode, Hamper, Hanley, Harvell, Hayes, Hinck, Hogan, Hunt, Johnson, Joy, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lewin, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nutting, O'Brien, Pendleton, Peoples, Peterson, Pilon, Pinkham, Plummer, Prescott, Rankin, Richardson D, Richardson W, Robinson, Russell, Sarty, Saviello, Schatz, Sirois, Strang Burgess, Stuckey, Sutherland, Sykes, Tardy, Thibodeau, Thomas, Tilton, Van Wie, Wagner J, Wagner R, Weaver.

ABSENT - Ayotte, Clark T, Cornell du Houx, Greeley, Martin JR, Martin JL, Rosen.

Yes, 53; No, 91; Absent, 7; Excused, 0.

53 having voted in the affirmative and 91 voted in the negative, with 7 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED**. Sent for concurrence.

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

Resolve, To Direct the Commissioner of Education To Review the Essential Programs and Services Funding Formula
(H.P. 389) (L.D. 551)
(C. "A" H-793)

Which was **TABLED** by Representative BERRY of Bowdoinham pending **FINAL PASSAGE**.

Subsequently, the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass** - Committee on **LABOR** on Bill "An Act To Index the State Minimum Wage to Inflation"
(H.P. 157) (L.D. 192)

TABLED - March 11, 2010 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - ACCEPTANCE OF EITHER REPORT.

On motion of Representative TUTTLE of Sanford, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (S-422)** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Allow the Town of Wells and the Town of Ogunquit To Amend the Terms of Their Cost-sharing Agreement for Their Community School District and To Provide Each Town the Ability To Withdraw from the Wells-Ogunquit Community School District"

(S.P. 670) (L.D. 1747)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - March 25, 2010 (Till Later Today) by Representative SUTHERLAND of Chapman.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Weaver.

Representative **WEAVER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'll be voting no on this motion. It is time to correct a 30 year injustice. Ogunquit has been paying up to \$90,000 per student to the town of Wells to have the privilege of using Wells school system. I called Ogunquit last week to find out what they were paying per student this year. You can check the math because you will not believe the blood money Wells is extracting from the citizens of Ogunquit. This year, Ogunquit is sending 54 students to Wells' schools at the cost of \$4.2 million. That's 54 students at \$4.2 million, a per student cost of \$77,863. This bill allows the town to negotiate a new arrangement, not a mandate. Put your town in Ogunquit's position. How would you like to pay \$77,863 for each and every student you send to Wells? Now put yourself in Wells position, receiving \$77,863 for each student another town sends to your school. I suspect you'd be happy as a dead pig in the sunshine. It's no wonder Wells is fighting tooth and nail to defeat this bill. Join me today in voting no in order to free the town of Ogunquit of the cross they have carried on their back for 30 years. Enough is enough, please vote no. Madam Speaker, I call for a roll call, and I would also ask the Clerk to Read the Committee Report.

Representative **WEAVER** of York **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Wells, Representative Chase.

Representative **CHASE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I know many of you have been here before and you've heard this issue over and over and over and over again. However, Wells is my home town. I grew up there long before Wells and Ogunquit had its divorce in 1980. Ogunquit was part of Wells, and even when we split in 1980 and Ogunquit wanted to become its own town, it was not a happy event in the town of Wells for the simple reason that, at that time, Wells was sort of the poor country cousin and Ogunquit was the rich aunt and uncle. And in the whole town of Wells, Ogunquit was our most highest valuable property and they contributed to our schools. The fear was, if we separated, that Wells would not be able to afford the schools and the quality of education that we had, so why would we want to separate from Ogunquit? Ogunquit felt that they did want to become their own town and they worked hard to do that and they agreed that they would support the education of our children going forward, and the agreement was based on the same formula that we had before they split off into their own town and that was on valuation.

In 1980, Ogunquit became its own town and, since 1980, Ogunquit has managed to trek up here year after year to try to change the formula. And indeed they did in 1998. It did change. It is no longer based on 100 percent valuation. Now it's based on one-third cost per pupil and two-thirds valuation. Because Ogunquit is expensive and it is costly to live there, a lot of the

people that settled between the two towns settled in Wells because it was more affordable. Certainly when they're young, that's when the children are, so more children come from Wells. But to be perfectly honest, if you looked at the yellow sheet that we passed out, there is no unfairness in the way the formula is done. Ogunquit pays a total of \$3.25 mill rate on the education part of it. Wells pays \$5.22. The state averages \$7.22. I mean so there's already a break on the difference due to really the correction that happened in 1998. Ogunquit's population is older and there's a lot of commercial property there. It's not conducive to having a lot of children in the school systems.

When I look at what's happening here with Wells and Ogunquit, I'm sure any of you who have, or most of us who have towns and valuations in your towns, there are certain areas in your town that are valued higher than other parts. It's probably the ones that don't have the most kids in the school system. So if you looked at their taxes that they paid and the number of children that they put in the school system, it probably would look like they pay a lot more per student. In Wells, in fact, we have areas like Wells Beach, Moody Beach and Drakes Island that are very highly valued, and in Drakes Island there are only a handful of kids that go there, which makes their cost per child about \$170,000 a student. If you looked at it on that basis, it would look bad. But the fact is, is that we all contribute. It's an investment in the future. Every one of us who are taxpayers in a town pay a contribution to the schools, whether you have children in the school system or not, and based on the valuation and the formula that we have right now, Ogunquit is not in bad shape and it's really not appropriate for us to go ahead and let them have, what, a dollar tax rate on the education? I mean, where do you want to go, to zero? I mean it's already been tried at Frye Island and it didn't work, and Frye Island has no children and yet they still have to contribute for the education. So I encourage everyone not to be fooled by all the changing of the shell games here. It's fair, it's appropriate, and, believe me, I got just as many calls from people in Ogunquit that I still have relatives in Ogunquit, we still have family in Ogunquit, that don't want to see an impact on our children and the school in the Wells-Ogunquit system. I really urge you to vote yes on the Majority Ought Not to Pass. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative **CONNOR**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in opposition to the Majority Ought Not to Pass Report. I think the prior speaker, the great Representative from Wells, I think fairness is a difficult thing to describe. When it's to your benefit, it's fair, and when it's not to your benefit, it's unfair. The information that I've been provided with, which puts a per student cost of nearly \$80,000 per child from Ogunquit in that school system, that feels unfair to me.

Now in a prior session this Legislature acted to put together school consolidation, and we did a number of things there to communities where there were winners, there were losers, there were people who felt that something was fair and there were people that felt things weren't fair. Just recently, we corrected some of those things that were felt to be unfair. Wells, and again you and I did comply with that law, might say this is unfair, but this school district didn't have to comply with that law. So the changes that we fixed, the things that we did to fix that law don't apply here. And presently, what this community has come forward and said is, look, if you're going to have a divorce clause, so to speak, for communities that consolidated, why can't we have such a provision? So for fairness, nobody says we should go forward immediately and they should be allowed to divorce,

but that should be part of the conversation on the table. This is David and Goliath. The good Representative from Portland draws allegories to David and Goliath all the time with me. To me, this is David and Goliath. I know where I stand. I'll be with David and I hope you will too. Thank you.

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

Representative HILL: Thank you, Madam Speaker. I rise to oppose this motion and I speak to my colleagues here in the House because I rise with a difficult position. For your information, I represent equal numbers of people in Ogunquit as I do in Moody, which is a section of Wells, and it goes a little bit beyond Moody. So for four years I have remained quiet about the situation and tried to be a mediator, a facilitator, kind of like a mother, I guess, but I was moved about a week ago to stand up today and talk about this and also to paper the House with some information because of a paper that had been handed out last week and again this week. When I looked at the information, I found it was very skewed and I said to myself, well, if both of my kids are playing fair, why is one putting out information that is not accurate? So with that I have decided to speak to this today. It is a fairness issue because if something were fair most people would be happy with it, but in fact this issue keeps coming back to the Legislature. It has come back four times since 1999, and I suspect that if we take the attitude that this is a local issue, we don't want to hear it, it will be back again for the 125th.

So I would like you know a couple of quick things. I think the parties here, certainly Ogunquit, are extremely frustrated and that means they need someone to listen to them and go through the weeds. But I am not today going to go through the weeds with you. In fact, I'm not even going to talk about dollar figures and get into taxes and mill rates, because I feel mill rates are a fictitious number that you use to do adjustments for valuations. But I want you to think about is this. Ogunquit pays 21 percent of the school budget for the Wells-Ogunquit School System and because many of you may have never been to Ogunquit or Wells, I'd like to sort of paint a picture for you so that you can go back to yourselves and think, well, is that a fair number. What I want to tell you is Ogunquit is four square miles big, it's actually pretty little. Wells is 52 square miles. Both towns are coastal towns, not backwater towns. There are 2.3 miles of Route 1 running through Ogunquit and, yes, it does have commercial businesses. Most of them are small shops, bakeries, restaurants, some motels owned by local people. Wells has 5.5 miles of Route 1 and they have lots of commercial businesses too. They have the national and chain businesses like CVS, Rite Aid, Hannaford, Irving and all the fast food restaurants as well as the Hampton Inn. Ogunquit has two miles of pristine beach and they took this on as a liability. They did not sell it off; they kept it for the people of Ogunquit and Maine so they get no taxes from that. Wells has four miles of very nice beach filled with beautiful homes, all about 150 to 200 feet of width frontage. Ogunquit has 1,200 people. Wells has 12,000. So I take you back to thinking about 21 percent of the costs of the school budget and realize there's 50 students from Ogunquit and there's approximately 1,400 students from Wells, and I ask you again, don't you think there's some questions here about fairness and that we need to have it looked at? Thank you.

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

Representative MARTIN: Thank you, Madam Speaker. It is clear that I live as far away from Wells-Ogunquit as most anyone, but this is an issue that I have been involved in since it's beginning, and it's an issue that never seems to go away and probably never will. But I have to bring it back to my own school

district, an SAD, where we have 8 percent of the students and we pay 26 percent of the bill within the school formula because of valuation. So I know that it may be an unfair structure that we have for Wells and Ogunquit, but we need to deal with the issue of valuation to support how much you support per child, and when you have a school district, then it gets allocated based on that basis. So I am still not sure how I'm going to end up voting right now, but I feel that the issue is not unfamiliar to a lot of people in this room who live in a school administrative district, and it is not a foreign structure, quite frankly, because it is an issue that we deal with every year when we determine school budgets, whether it's a new RSU or whatever for those of us who are in that kind of structure excluding the single districts that may be, for example, the cities. But short of that, we have that issue very much before us, and I just wanted to lay that out as a basis. I'm not sure yet what my light will be, even looking at where the proposed future might bring us if this motion were not to pass.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Shaw.

Representative SHAW: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I stand in support of the current motion and the good Representative from Wells. As you know I represent Standish. Frye Island used to be part of Standish and they decided to secede from Standish in an effort to try to not pay any money towards the local school district. So Frye Island did secede but they still do have to pay into the school district. Currently, they enroll zero students at SAD 6. Standish lies at the southern end of Sebago Lake. There are probably other areas in Standish, neighborhoods, probably summer homes that don't send any kids to the SAD 6. Should those neighborhoods try to secede from Standish in an effort to not pay into the local school district? I say not. Thank you, Madam Speaker.

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

Representative HILL: Thank you, Madam Speaker. I wish to speak further. I'd like to address a few things that were just said, and I want to be clear because I did not mention it earlier that, in this bill, there is language about withdrawal. But Ogunquit tells me over and over again, they really do not want to withdraw. Their children are in the school system, they do not want to disrupt things, but they have no bargaining power whatsoever and they were hoping that if they were allowed to act in similar fashion to what we just passed in LD 570 for schools under consolidation to consider withdrawal, then at least they would have a bargaining chip when they went to the table to discuss matters. Now just to get a sense of their frustration, three of their votes don't equal one of the votes on the school board that they belong to with Wells and Ogunquit. So again, we're not looking to withdraw. They just want to work out a situation that is fair. They fully understand, they fully intend to pay for students. This is a community that has done that for years and they are not looking to get out from under that. I think it's also unfair to think of them as an old community. There are some very feisty people who live there, some of the hardest working people politically who work there, they bring a lot to this state, they are very smart and well educated people, so they appreciate education and it doesn't matter what their age is. Thank you.

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

Representative CHASE: Thank you, Madam Speaker. I rise again to speak. First of all, I do want to correct a mistake that was on some of the flyers and I called the school board to make sure of this, but one vote in Wells does not cancel out three votes in Ogunquit. I just want to make that perfectly clear.

The second thing I want to bring up is Ogunquit may be small but 80 percent of the properties in Ogunquit are either non-resident or commercial. Sixty percent of the properties in Wells are non-resident or commercial. So any adjustment that was made that way would really give a break to out-of-staters and people that just have businesses there.

The other thing I want to bring up is the fact that Wells and Ogunquit actually do a lot of things together. We really do. I don't want everyone to leave here and think that we just constantly fight with each other. It only just seems that way every two years when we come here, but we do. There are wonderful people in Ogunquit, we work together, we built a beautiful senior center together. There are a lot of issues that we have together. It's just this one thing that we thought we agreed to a long time ago and now some people want it changed.

I do also want to say that as far as the withdrawal goes, we actually did have a withdrawal almost, it was two years ago. Wells and Ogunquit actually agreed to separate. We finally were going to pull out of the school system. Ogunquit agreed, Wells agreed, and we came right down to even how much it was going to cost to do that separation. Where it fell apart was on how the payments were going to be made. So the fact is, is that we do, in the past, we have looked at separating. And then of course the school consolidation law came in and it seemed a lot more beneficial to stay together for both Wells and Ogunquit at that point because we were a CSD and it didn't seem like we were going to be able to consolidate with anyone around us, so we are a stand alone school. And to be perfectly honest, both communities have the financial ability to take care of our schools and we want to do that, but we just want to make sure that it's done in the appropriate way based on the valuation, the way it's done right now, and I really urge you again to vote Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative BERRY: Thank you, Madam Speaker. I rise in opposition to the pending motion and I do so in sympathy for my colleague from Wells because I represent a community that is similarly student rich and land poor, relative to our neighbors on the coast in Harpswell who are student poor and land rich. I understand the concerns that are being raised in that more general light, but I want to remind my colleagues that we are dealing with a very specific private and special law. And it's my understanding, and I would invite anyone to correct me if I'm mistaken here, but if the typical statewide cost sharing regime were to apply in Wells and Ogunquit, that Ogunquit would in fact be paying less than they are now, and so there is a concern here which I think does need to be addressed. I invite my colleagues to join me in voting down the pending motion so that we can move on to an amendment that I think will be offered if that does occur. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 344

YEA - Austin, Beaudette, Beaudoin, Beaulieu, Bickford, Blodgett, Boland, Browne W, Burns, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett J, Crockett P, Curtis, Cushing, Davis, Edgcomb, Finch, Fletcher, Fossil, Gifford, Giles, Hamper, Hanley, Harlow, Harvell, Haskell, Johnson, Joy, Kent, Knight, Lajoie, Legg, Lovejoy, Magnan, McFadden, McLeod, Millett, Nass, Nutting, Perry, Peterson, Plummer, Prescott, Priest, Richardson D, Sarty, Saviello, Shaw, Strang Burgess, Sutherland, Sykes, Thomas, Tilton, Tuttle, Watson, Wright.

NAY - Adams, Beck, Berry, Blanchard, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Ceбра, Clark H, Cleary, Cohen, Connor, Dostie, Duchesne, Eaton, Eberle, Eves, Fitts, Flaherty, Flemings, Flood, Gilbert, Goode, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Knapp, Kruger, Langley, Lewin, MacDonald, Martin JR, Martin JL, Mazurek, McCabe, McKane, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Pieh, Pilon, Pinkham, Piotti, Pratt, Rankin, Richardson W, Robinson, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Stuckey, Tardy, Theriault, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Weaver, Webster, Welsh, Wheeler, Willette, Madam Speaker.

ABSENT - Ayotte, Cornell du Houx, Dill, Driscoll, Greeley, Rosen, Thibodeau.

Yes, 61; No, 83; Absent, 7; Excused, 0.

61 having voted in the affirmative and 83 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

Subsequently, on motion of Representative SUTHERLAND of Chapman, the Minority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-422)** was **READ** by the Clerk.

Representative HILL of York **PRESENTED House Amendment "A" (H-815) to Committee Amendment "A" (S-422)**, which was **READ** by the Clerk.

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

Representative HILL: Thank you, Madam Speaker. In an effort to continue with the line of wanting to be treated fairly, I have submitted this amendment. It does two things. It tells the towns of Ogunquit and Wells to go off and mediate, but it doesn't give them the option. It tells them they must go and mediate. And then, if mediation after approximately a year fails, it requires that they go to binding arbitration. Again, you think of this as a local matter but clearly it keeps coming back to the Legislature and we need to settle this once and for all. I think that if one of the parties feels that their arrangement is fair, they would welcome a third party reviewing it. I would also like to point out with regard to the amendment that we have a fiscal note attached to it, and it's very important that you realize this. There was some interesting ways in which we handled the language so that it would not in fact be a state mandate. So that has been taken off the table. And again, this isn't in the interest of trying to do the right thing for both parties and come to a final conclusion on this issue. Thank you.

Subsequently, **House Amendment "A" (H-815) to Committee Amendment "A" (S-422)** was **ADOPTED.**

Committee Amendment "A" (S-422) as Amended by House Amendment "A" (H-815) thereto 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.**

Representative CHASE of Wells **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative CHASE: Thank you, Madam Speaker. As was pointed out earlier, this is an issue between Wells and Ogunquit. It's not an issue that needs to be decided by anyone but Wells and Ogunquit, and Wells and Ogunquit are perfectly capable of making the decision regardless of what you may have

heard. I've lived there all of my life, we've worked with Ogunquit well. We actually had a decision a couple of years ago, but came back together because of the CSC and the school consolidation issues. This is not something that any town would want to be bound with. Wells certainly does not want to be bound with this. And again, and in fact the Minority Report actually gives us a method for separating without the amendment on it. So I would really encourage you to vote this down and just let us take care of our own issues. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 345

YEA - Adams, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Celli, Clark H, Cleary, Cohen, Connor, Crockett P, Dostie, Duchesne, Eaton, Eberle, Eves, Fitts, Flaherty, Flemings, Flood, Fossil, Gilbert, Goode, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kruger, Lajoie, Legg, Lewin, Lovejoy, MacDonald, Martin JR, Martin JL, Mazurek, McCabe, McKane, Miller, Morrison, Nelson, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pinkham, Piotti, Pratt, Priest, Rankin, Richardson W, Robinson, Rotundo, Russell, Sanborn, Schatz, Sirois, Smith, Stevens, Stuckey, Tardy, Theriault, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Beaudette, Beaudoin, Boland, Browne W, Burns, Casavant, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett J, Curtis, Cushing, Davis, Edgecomb, Finch, Fletcher, Gifford, Giles, Hamper, Hanley, Harvell, Johnson, Joy, Kent, Knapp, Knight, Langley, Magnan, McFadden, McLeod, Millett, Nass, Peterson, Plummer, Prescott, Richardson D, Sarty, Saviello, Shaw, Strang Burgess, Sykes, Thibodeau, Thomas, Tilton.

ABSENT - Ayotte, Cornell du Houx, Dill, Driscoll, Greeley, Rosen, Sutherland.

Yes, 96; No, 48; Absent, 7; Excused, 0.

96 having voted in the affirmative and 48 voted in the negative, with 7 being absent, and accordingly Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-422) as Amended by House Amendment "A" (H-815)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

An Act To Encourage the Use of Models in the Collection and Use of Student Achievement Data (EMERGENCY)

(S.P. 704) (L.D. 1799)

(C. "A" S-483)

TABLED - March 30, 2010 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **PASSAGE TO BE ENACTED.** (Roll Call Ordered)

The SPEAKER: A roll call having been previously ordered, the pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 346

YEA - Beaudette, Beaudoin, Berry, Blanchard, Blodgett, Boland, Briggs, Butterfield, Cain, Campbell, Carey, Casavant, Celli, Cohen, Connor, Crockett J, Crockett P, Curtis, Davis,

Dostie, Duchesne, Eberle, Eves, Flaherty, Flemings, Fossil, Giles, Haskell, Hayes, Hill, Hinck, Innes Walsh, Johnson, Kaenrath, Kent, Knight, Legg, Lovejoy, MacDonald, Magnan, Martin JR, McKane, Miller, Millett, Morrison, Nelson, Nutting, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pratt, Rankin, Richardson D, Robinson, Rotundo, Russell, Sanborn, Sarty, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Tardy, Thomas, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Wheeler, Madam Speaker.

NAY - Adams, Austin, Beaulieu, Beck, Bickford, Bolduc, Browne W, Bryant, Burns, Cebra, Chase, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Cushing, Eaton, Edgecomb, Finch, Fitts, Fletcher, Flood, Gifford, Gilbert, Goode, Hamper, Hanley, Harlow, Harvell, Hogan, Hunt, Jones, Joy, Knapp, Kruger, Lajoie, Langley, Lewin, Martin JL, Mazurek, McCabe, McFadden, McLeod, Nass, O'Brien, Peterson, Pinkham, Piotti, Plummer, Prescott, Priest, Richardson W, Saviello, Schatz, Shaw, Sirois, Stuckey, Theriault, Thibodeau, Tilton, Tuttle, Weaver, Webster, Willette, Wright.

ABSENT - Ayotte, Cornell du Houx, Dill, Driscoll, Greeley, Rosen.

Yes, 78; No, 67; Absent, 6; Excused, 0.

78 having voted in the affirmative and 67 voted in the negative, with 6 being absent, and the Bill **FAILED PASSAGE TO BE ENACTED.**

On motion of Representative PIOTTI of Unity, the House **RECONSIDERED** its action whereby the Bill **FAILED PASSAGE TO BE ENACTED.**

On motion of Representative SUTHERLAND of Chapman, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED.**

The same Representative **PRESENTED House Amendment "A" (H-813)**, which was **READ** by the Clerk.

Representative SAVIELLO of Wilton **REQUESTED** a roll call on **ADOPTION of House Amendment "A" (H-813).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-813). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 347

YEA - Beaudette, Beaudoin, Berry, Blanchard, Boland, Briggs, Butterfield, Cain, Campbell, Carey, Casavant, Celli, Chase, Cohen, Connor, Crockett J, Crockett P, Cushing, Davis, Dostie, Duchesne, Eberle, Eves, Flaherty, Flemings, Giles, Haskell, Hayes, Hill, Hinck, Hogan, Innes Walsh, Johnson, Jones, Kaenrath, Kent, Knight, Legg, Lovejoy, Magnan, Martin JR, Martin JL, Miller, Millett, Morrison, Nelson, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Piotti, Rankin, Richardson D, Rotundo, Russell, Sanborn, Sarty, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Thomas, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Wheeler, Madam Speaker.

NAY - Adams, Austin, Beaulieu, Beck, Bickford, Bolduc, Browne W, Bryant, Burns, Cebra, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Curtis, Eaton, Edgecomb, Finch, Fitts, Fletcher, Flood, Fossil, Gifford, Gilbert, Goode, Hamper, Hanley, Harlow, Harvell, Hunt, Joy, Knapp, Kruger, Lajoie, Langley, Lewin, MacDonald, Mazurek, McCabe, McFadden, McKane, McLeod, Nass, Nutting, O'Brien, Peterson, Pinkham, Plummer, Pratt, Prescott, Priest, Richardson W, Robinson, Saviello, Schatz,

Shaw, Sirois, Stuckey, Tardy, Theriault, Thibodeau, Tilton, Tuttle, Webster, Willette, Wright.

ABSENT - Ayotte, Blodgett, Cornell du Houx, Dill, Driscoll, Greeley, Rosen.

Yes, 76; No, 68; Absent, 7; Excused, 0.

76 having voted in the affirmative and 68 voted in the negative, with 7 being absent, and accordingly **House Amendment "A" (H-813)** was **ADOPTED**.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Bolduc.

Representative **BOLDUC**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I agree that merit based pay has some merit. But, unlike business performance, teaching performance is much more subjective. Judging good teaching is like judging good art or good music. Some teachers I know are both praised by parents and criticized by other parents. Some parents think the teacher is great while others don't. The same is true with student impressions. Some love their teacher and think he or she is teaching well. Other students don't like the teacher and feel he or she teaches poorly.

Some people think a very strict teacher is a more effective teacher while others prefer a more laid-back teacher. Some people like a lot of "hands-on" activities and manipulatives while others prefer paper and pencil activities and drill and practice. Some parents and students like a lot of homework while others don't want any.

If we base merit based pay on "test scores" then we have a whole new set of problems. Student performance is dependent upon many factors including environmental and genetic factors that are completely outside the control of the teacher. Judging a teacher on test scores of students is like judging a doctor by how healthy their patients are. In addition, using test scores will force teachers to just teach test material rather than focus on the larger more well-rounded curriculum. Teachers will also be more inclined to "compete" with fellow teachers rather than collaborate.

My point is that teaching is more of an "art" which is far more subjective than, say, a business merit system where employees are judged on very specific objective criteria. It is far easier to judge sales figures or construction quality than it is the art of teaching.

The public education system is not a business. The system doesn't focus on profits, only expenditures. Thus it should not be compared to a business. Merit pay will create competition among teachers and an unhealthy morale among faculty members.

Good teachers, who help the new teachers now, will no longer have incentive to help struggling teachers. If these struggling teachers can't get help, they will get frustrated and leave the profession, creating a greater teacher shortage, which promotes hiring of more unqualified teachers to fill these vacant positions. Merit pay won't improve teacher quality, it will hinder it.

Performance-based pay has the ring of conventional wisdom. It is based on a managerial approach to evaluation and compensation that assumes that the teacher is the sole influence on the academic performance of students, that teaching is a solo act, and that academic achievement and test scores are the only outcomes of education. It assumes that there is a one-to-one relationship between the task to be rewarded (teaching) and the outcome to be measured (student exam scores). Those who are familiar with teaching know that this is rarely the case. It also assumes that teachers need financial incentives in order to teach well and will magically improve their teaching and their subject matter knowledge once they know that they will be rewarded with a bonus at the end of the year. This assumption does not reflect what we know about why teachers teach, and the factors that help teachers become good quality teachers.

How has performance-based pay worked in other settings? There have been mixed results because the philosophy underlying the scheme differs from district to district. Some school districts in America have run into difficulties with performance-based pay structures for a variety of reasons, including differences of opinion or uncertainty about: the outcomes to be evaluated (test scores only, other aspects of student development?), the aspect of teacher performance to be evaluated (teaching only, co-curricular activities? additional leadership roles?), the period of time during which the student scores are monitored, the unit of analysis (class averages or student's individual scores?). Where teachers tend to work collaboratively, they find it difficult to accept an incentive that is individualized.

In the final analysis I believe performance based pay is impossible to objectively quantify and undermines the collective bargaining rights educators in America have fought for, for generations. It seeks to dehumanize the very human experience of the bond development and emotional nourishment educators across the country build on to create healthy learning environments for their students.

Finally, these Race to the Top or should I say race to the money bills that have come before the Legislature this session are a very clever way for the Feds to make unfunded statutory mandates for our state in the future by carrot and sticking us with vague punitive funding threats. Thank you.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is obviously a difficult issue and I don't underestimate the difficulty in properly evaluating teachers in the classroom, but I'd like to make a couple of points. I've worked under merit pay situations and non-merit pay situations and I believe you can construct merit pay situations that are productive.

I thought there was a good article in today's *Kennebec Journal* paper and it was talking about Maine and the Race to the Top, the race to the money, and, frankly, I don't care which way you call it. The Race to the Top, Maine's performance has been poor on positioning itself to compete for those funds. The commissioner put forth three bills. Those three bills, in my estimation, were unsatisfactory in their detail and description of how Maine would compete for that. But by all accounts that I know of, they are important to be able to compete. Now whether or not we can do the work that will be successful is probably a low probability, but at least we should have the chance to try and do that.

The article went on to explain that Maine is short in three areas and this is one set of criteria that I believe that the current administration has correct. One is merit pay for teachers. This bill would establish the data that could contribute to a merit pay system. It does not define a merit pay system. The second is public charter schools, and our bill calls for innovative schools instead of approving charter schools. So that puts us at a disadvantage as well. And third is the commitment of the districts and the teachers to try new things. Without the commitment of teachers, when we submit our application then we should not even bother to submit it, and obviously we have a piece of paper on our desks from the MEA and they're not in favor of this. They're not in favor of it because they're scared of merit pay. Now I think that's an unfounded consideration at this point. I think merit pay can be developed on a variety of scales using some data and using individuals and agreements. So I would ask that every body vote to support this particular bill.

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

Representative **PERRY**: Thank you, Madam Speaker. This bill is not about merit pay. This bill is about developing models that schools can use if they choose to use it, using several different methods and ways to evaluate. This is not about using one standardized test. We have worked and I have been involved in working with the Learning Results and the many different ways to evaluate students in their progress. We use portfolios and other ways to show progress within the students and meeting the benchmarks that the school has and the Learning Results have. This is not about standardized tests. This is about evaluating on outcomes, outcomes of the students that you are teaching. I think that this is time that we do start looking at it, that those models be there. Better to have the models be there than to have the local school board and I will say this, develop their own because, unfortunately, it does get personal at that point, and we don't want that. I like knowing what I'm being evaluated on and if there is a model to do that. I get evaluated. My evaluation is my patient outcomes. If my diabetics, and we keep a record of this, if I have too many diabetics that are not meeting the goals of their treatment, that's part of my evaluation. How I treat my other patients with heart disease, that's part of my evaluation, as well as how many patients I see and what the evaluation sheets from the patients themselves that the department gets back. I get evaluated for the outcomes of what I am supposed to be doing for work. I think that if we are teaching students then there are ways to look at outcomes and help us be better at what we do. I use those outcomes for myself because I then know what it is I have to focus and work on and move forward and get better at what I do, and I think that anyone who is working at teaching students has that same responsibility. Thank you.

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

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I think this is explicitly merit pay. I've taught for 40 years and I remember 25 years ago when all the teachers were trying to fight against merit pay because the administrators would assign all the good students to other teachers and then they'd be evaluated as good teachers. That's not true. I taught in four different schools. The first one I taught in, Representative Chase was a little girl there at Wells, and there was a great staff there, good teaching staff, and not a lot of kids went on to college because they weren't all going to do it. Then I taught at another school where Representative Briggs went to school, at Mexico High School, and we had a fantastic staff. We had two teachers of the year there. One of them, ironically, just died yesterday, and those kids were all good. And then I went to Mt. Blue High School and there was good staff there too, and we didn't have a high percentage of kids going on to college or succeeding, and I went to Cheverus where 98 percent of the kids went on to school. I don't think our staff was any better than Wells, Mexico or Mt. Blue. I think it's just a matter of what you put in your classroom. Good students in the classroom will create good results and merit pay is not going to change a thing. I'm not going to vote for this and I'll put my 40 years of experience on it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Magnan.

Representative **MAGNAN**: Thank you, Madam Speaker. I think I've got the 40 years too. As you heard this morning, I'm no fan of Arne Duncan, but evaluation is not an issue of Arne Duncan or the demands of the Federal Government for its allowing us to beg for money and grants and funds. Rather

evaluation is a process and it's an improvement process and it can be a self-improvement process. We get evaluated every other year on whether we get elected or not. It's not in writing, but we do get evaluated. Workers in business and industry, from the first day they are hired until the last day they leave, are evaluated regularly by contractor agreement. But teachers have also often held to the notion that as professionals they should be autonomous in the classroom and that's not true and that's not reasonable. It may have worked in the good old days, or especially if you're in a one room schoolhouse, but nowadays it doesn't quite work that way, and there are few professionals in any of the professions who are not evaluated rigorously. If a person is a professional, whether they're a teacher or not or a psychiatrist, psychologist, doctor, lawyer, they should not be afraid to do a self evaluation, a peer evaluation, or any administrative evaluation. Good parts of the evaluation such as the self reflection can be very important in finding out who you are as a person, what you do as a teacher, why you do it, how you do it, and then to put that into a process with your administrator who's only looking out, hopefully, for the good of you and your school and your class. I don't know. I think the selection of the evaluation tools will be critical and central to this process and its success. I hope we have real serious reasoned input from stakeholders group. Teachers have got to get past the indignity of being evaluated as all other public servants are. As we all know, for those of us who believe in a higher authority, we are all constantly being evaluated and we always try and do our best. Thank you, Madam Speaker.

Representative BOLDUC of Auburn **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **PERCY**: Could somebody from the committee give us the information regarding the potential dollars to be received from the Federal Government if we institute this legislation?

The SPEAKER: The Representative from Phippsburg, Representative Percy has posed a question through the Chair to any member of the Education Committee who may care to respond. The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. Madam Speaker, initially the actual Race to the Top competition, the amounts that states may receive are divided into categories according to the population of the state. Maine falls into the range of \$25-\$75 million, a pretty significant amount of money. There is that amount in the Race to the Top process. There are other funds, certainly, that will be coming, that do come. Currently the Federal Government is rewriting the Elementary and Secondary Education Act which is up for renewal. It is anticipated and all the indications, or certainly what I've read and what I've been told by other professionals, linking student achievement data with teachers and principals will be a required element. We get about \$100 million from the Elementary and Secondary Education Act. That would certainly have an impact. There are other programs that are funded that come our way. Every indication, again, is that this is the direction that the country is going in. Some states have done very exciting things. I want to just remind you before we go to a vote that this piece of legislation removes a barrier that prevents any local

school district, any local school board that wants to implement some kind of assessment based on student achievement data in their schools is not allowed to do it because it's in state statute that it is not allowed. This removes that barrier. The decisions go back home. I have heard from the past three years about the importance of local decision-making and local control, and that's where it would remain. But it would remove the statutory barrier that does not allow any school district in the State of Maine, regardless of what everybody wants to do, it doesn't allow it to happen. If the teachers and principals and school board and the superintendent all think this is a great idea, they can't do it. This simply removes that barrier. So I hope you will consider the long-term implication and vote my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MacDONALD**: I'm curious to know to whom the money would come, should it come if this were to succeed, who would control the money and what strings are on it? In essence, what are the varieties of things that it could be used for or are there any things it could not be used for?

The SPEAKER: The Representative from Boothbay, Representative MacDonald has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Chapman, Representative Sutherland.

Representative **SUTHERLAND**: Thank you, Madam Speaker. One of the key components and it's going on right now, the commissioner and folks in the department have been traveling around the state to talk to school districts around the state. School districts have to come up with their plan to implement innovations or identify some of the areas that they would like to address, and then sign on, if you will, to be a partner in the grant proposal. It is made up of and I don't know other than I'm certain the money will flow through the department but to the schools. The money is intended to go to local school districts to implement plans that are developed at the local level. The whole proposal is made up of these partners, if you will, and the partners have to agree ahead of time, and so that's the part that's going on. Right now the commissioner has been traveling the state to get people interested and involved. I believe that was the question.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Nelson.

Representative **NELSON**: Thank you, Madam Speaker. As a member of the Education Committee these three bills that we have been talking about came to us late in this session. This bill, I believe, is definitely in the best interest of Maine students and Maine schools. We have spent the last two years since I've been in this House cutting back on educational funding that is available to our schools and to our teachers. As part of making a fine education system, all of the studies tell us that the very most important indicator of a good school system is the quality of the teaching, and what we all want is for the very best teachers to be teaching the children throughout the state. We would like to give them the resources so that they can indeed be the very best teachers. How do you know if they are the very best teachers? We've talked about children making progress during the year and making progress at least at grade level so that they proceed through that grade to be in the next grade. There are some charts in the brochure that was circulated earlier this week, Kids Count brochure, talking about the achievement of children from poor families as well as the educational achievement of children from wealthier families or more stable families. Those charts are

disturbing because they show a downward trend in achievement of students. I think we need to help our students and the way we help our students is to help our teachers so that they know that what they are doing is making a difference and that the children are indeed learning. This is just another tool that we can provide to schools, if they choose to use it, and we can bring the resources of the department with stakeholder input to put together some models that if they choose to use those in helping their teachers to become better they can do so. I urge you to support this bill.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. One of the reasons I rise to support this, to support this legislation, is because of the potential of that money coming from the Federal Government. Many of you will remember that in 2004, there was a referendum question put forth asking the state to come through with its promise to fund 55 percent, and we have been working at that steadily. We have been working at that steadily. Unfortunately what happened when that money was being sent to the schools and the money that was sent back to the towns, it was supposed to go for property tax relief, and I would ask how many of you know that your towns gave out property tax relief because, right now, Ladies and Gentlemen, not a lot of towns did that yet the schools got their money. The economic times are hard. The idea that we would turn down the possibility of receiving money that we so desperately need in our school systems, both rural and urban, is unbelievable to me, and so I really urge you to support this legislation and let's work to help our schools. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Flaherty.

Representative **FLAHERTY**: Thank you, Madam Speaker. I think a couple of years ago I probably would have been opposed to this bill and then something happened, the recession. And in our school districts today, I know I speak for Scarborough when I tell you that it is absolutely a burden on our kids, but also, it's a burden on our teachers. Scarborough this year is cutting 45 teaching positions and we're still raising property taxes. I cannot turn down the opportunity to draw down federal funds. I cannot go back to my district in good faith and tell the teachers, who potentially might lose their job, that we had an opportunity to bring more federal dollars to this state, to save your job potentially, and I voted no. I am the grand-son of a high school history teacher and principal, and I am the son of an ed tech in the Scarborough School System. If anyone suggests that my vote for this bill is somehow opposed to teachers, I'd take that with incredible disrespect. I'm voting to make sure that more teaching positions are saved and that more are created for our children and that's why I'll be supporting the pending motion and urge you too as well. Because I know that Scarborough isn't the only town in the state that is losing teachers because of lack of funding. So I ask you to think about not the teachers necessarily in your district but about the kids who are having to go into larger class sizes, losing programs, and ultimately having less of an education available to them. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I don't disagree with some of the comments that have been made here. In fact, I myself, as working in the business world for 32 years, have lived with evaluations all my life. I've had goals that have been established for me like how many trees have I planted, how

many acres I've managed. But teachers are different. Last night I sat at Mt. Blue, the regional school district, and listened as we cut \$1.6 million and I'm not sure how many jobs are going to be lost there, and I talked with the teachers that were there and I asked them about the evaluation. They were all in favor of it, however, extremely concerned because one of the teachers who had been in Vermont or one of the New England states where they had such an evaluation system, she said it became very personal. In fact, she was downgraded by her fellow teachers because when that person came in the room to evaluate her, she didn't open the window in the back of the classroom. So here we are rushed to get money that we probably aren't going to get, we're going to cobble something together. We're going to give a school board the ability, and remember I'm in favor of local control, but we're going to give them the ability to do something that, at the end, I promise all of you, you will be back, those that come back, fixing it, as I've said many times, just like the school consolidation law. You'll have a nightmare on your hands. We need to vote no. We're not going to get the money, so let's do it right and do it together, not force. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I wasn't going to speak today, I spoke my piece yesterday, but I do just want to caution you about one thing, it's that this money is not free. We would like to talk about local control and we talk about the kids, but it all comes back to the money and, ultimately, if they're going to give us all this money, are we going to be able to do what we want with it or are they going to tell us how to spend it? Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Beck.

Representative **BECK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I understand that the emergency preamble has been removed in the pending motion, but the original legislation did state that funding would be, this legislation is necessary to ensure the state's eligibility to apply for a significant amount of federal funding for continued education reform, not for normal GPA or education operations. It's important to note, Madam Speaker, that should this legislation pass, Maine makes an application and is denied, the legislation still remains in effect, the statute is still changed whether or not we receive this elusive federal funds. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Finch.

Representative **FINCH**: Thank you, Madam Speaker. I'm going to say something I thought I'd never say on the floor of this House: I had not planned to speak today. I am doing so because of the comments of the good Representative from Rockland, Representative Mazurek. We have just heard on the floor here that in the, again, what I consider extremely unlikely event that Maine gets any money, that local school districts will file a plan. Well, I guess I would have a couple of questions. They file a plan with whom? Who will make the decision that their plan does or does not meet the criteria and, if it does meet the criteria, how many dollars do they deserve for that particular plan? Is that going to be decided by the people on the fifth floor in the Cross Building in the Department of Education? Is it going to be decided by somebody in Washington that says, you in East Podunk, Maine, your plan didn't make it; you in West Podunk, Maine, yes your plan did make it. In other words, we would be then instead of having 50 states apply to Race to the Top, we would then have an innumerable number of school districts in Maine starting at square one. Okay, then the next question I

would have is what must these plans include? The good Representative from Rockland hit a nerve with me because these funds aren't going to come without massive strings attached to your local districts, and we do not know what those strings are going to be, we don't know what that criteria is. It's a very good likelihood that, again, in what I consider the extremely unlikely that there is any money, you are going to be told in East or West Podunk to get the money you must do x, y, z, one, two, three. I'd like to know what x, y, z, one, two, three is before I sign on to this crapshoot.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you, Madam Speaker. My friend from the Education Committee brings up several points that are interesting. I think this would happen the way all grants from the Federal Government happen. You go out and collect those people who are interested in applying, they apply to the Department of Education, that plan is put together and submitted from the State of Maine. So I would expect that to contain the details of whatever or whoever was applying for this was going to do in terms of innovation and, if they approve the plan, then they would get to do this.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 348

YEA - Beaudette, Beaudoin, Berry, Blanchard, Blodgett, Boland, Burns, Butterfield, Cain, Campbell, Carey, Casavant, Chase, Cohen, Connor, Crockett J, Crockett P, Cushing, Davis, Dostie, Duchesne, Eberle, Eves, Flaherty, Flemings, Fossil, Giles, Haskell, Hayes, Hill, Hinck, Johnson, Kaenrath, Kent, Knight, Legg, Lovejoy, Magnan, Martin JL, Miller, Millett, Morrison, Nelson, Peoples, Percy, Perry, Pieh, Pilon, Piotti, Rankin, Richardson D, Robinson, Rotundo, Russell, Sanborn, Smith, Stevens, Strang Burgess, Sutherland, Sykes, Tardy, Thomas, Tilton, Treat, Trinward, Valentino, Van Wie, Wagner J, Wagner R, Watson, Welsh, Madam Speaker.

NAY - Adams, Austin, Beaulieu, Bickford, Bolduc, Briggs, Browne W, Bryant, Cebra, Celli, Clark H, Clark T, Cleary, Cotta, Crafts, Cray, Curtis, Eaton, Edgecomb, Finch, Fitts, Fletcher, Flood, Gifford, Gilbert, Goode, Hamper, Hanley, Harlow, Harvell, Hogan, Hunt, Jones, Joy, Knapp, Kruger, Lajoie, Langley, Lewin, MacDonald, Martin JR, Mazurek, McCabe, McFadden, McKane, McLeod, Nass, Nutting, O'Brien, Pendleton, Peterson, Pinkham, Plummer, Pratt, Prescott, Priest, Richardson W, Sarty, Saviello, Schatz, Shaw, Sirois, Stuckey, Theriault, Thibodeau, Tuttle, Weaver, Webster, Wheeler, Willette, Wright.

ABSENT - Ayotte, Beck, Cornell du Houx, Dill, Driscoll, Greeley, Innes Walsh, Rosen.

Yes, 72; No, 71; Absent, 8; Excused, 0.

72 having voted in the affirmative and 71 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-483) and House Amendment "A" (H-813) in NON-CONCURRENCE and sent for concurrence. ORDERED SENT FORTHWITH.**

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 582) (L.D. 1504) Bill "An Act To Require That Expedited Wind Energy Development Projects Provide a Tangible Benefit to Maine Ratepayers in the Form of Discounts to Future Electric Rates" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-501)**

(S.P. 710) (L.D. 1810) Bill "An Act To Implement the Recommendations of the Governor's Ocean Energy Task Force" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-500)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1310) (L.D. 1824) Bill "An Act To Decriminalize Violations of Rules or Permit Conditions of the Baxter State Park Authority" (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-812)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Clarify Maine's Phaseout of Polybrominated Diphenyl Ethers"

(H.P. 1105) (L.D. 1568)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-731) in the House on March 18, 2010.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-731) AS AMENDED BY SENATE AMENDMENT "C" (S-502)** thereto in **NON-CONCURRENCE.**

The House voted to **RECEDE AND CONCUR.**

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

On motion of Representative CAMPBELL of Newfield, the House adjourned at 6:03 p.m., until 9:00 a.m., Thursday, April 1, 2010 in honor and lasting tribute to Richard "Rocky" D'Andrea, of Limerick and Edwina Neptune, of the Penobscot Nation.